88-7

DEFENSE ACQUISITION CIRCULAR

31 MAY 1989

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This Defense Acquisition Circular is issued by direction of the Secretary of Defense pursuant to the authority contained in 5 U.S. Code 301, 10 U.S. Code 2202, DoD Directive 5000.35, and DoD FAR Supplement 201.301.

Unless otherwise specified, all DoD FAR Supplement and other directive material contained in this Defense Acquisition Circular is effective 31 July 1989, in accordance with DoD FAR Supplement 201.301(S-70)(4).

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NOTE: Revisions in this DAC are issued as final rules except the revisions under Item VI which are issued as an interim rule.

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ITEM I--TAXPAYER IDENTIFICATION NUMBER (TIN) INFORMATION (FINAL RULE)

DFARS 204.203 is added to state that if the TIN or contractor status information has been obtained from a source other than the provision at FAR 52.204-3, the last page of the contract forwarded to the paying office will be annotated to provide that information.

Replacement page: 204.2-2.

ITEM II--INCENTIVES FOR INNOVATION (FINAL RULE)

DFARS 207.106 is added, 217.7201-1 is revised, and revisions to 227.473-2 which were included in DAC #88-3 (Item VII) are finalized. These changes implement Section 806 of the FY 89 DoD Authorization Act, Public Law 100-456. The statute limits the Government's authority to require that prospective developers or producers of major systems provide proposals which would enable the Government to use technical data to obtain future competition when acquiring items or components of a weapon system, where the items or components were developed exclusively at private expense. With respect to the revisions to 227.473-2, an interim rule was published in the **Federal Register** on 22 December 1988 (53 FR 51557).

Replacement pages: 207.1-7 and 217.72-1.

ITEM III--ANTIFRICTION BEARINGS (FINAL RULE)

DFARS 208.79 and the clause at 252.208-7006 are revised to provide coverage which restricts DoD bearing procurements to domestic sources in most instances. This restriction is deemed necessary to protect and strengthen the domestic industrial base for an industry critical to National security. An interim rule with request for comments was published in the **Federal Register** on 4 August 1988 (53 FR 29332). Comments were considered in developing this final

Item III (Continued)

rule which was published in the **Federal Register** on 12 April 1989 (54 FR 14654). This rule is effective 11 July 1989.

Replacement pages: 208.79-1 through 208.79-3, 252.208-6, and 252.208-7.

ITEM IV--EVALUATION OF CONTRACTOR'S ESTIMATING SYSTEM (FINAL RULE)

DFARS 215.811-76(b)(9) is revised to clarify that historical experience includes historical vendor pricing information.

Replacement page: 215.8-19.

ITEM V--REPORTING OFFICIAL FOR THE OFFICE OF THE SECRETARY OF DEFENSE DIRECTOR OF THE SMALL AND DISADVANTAGED BUSINESS UTILIZATION OFFICE (FINAL RULE)

DFARS 219.201 is revised to implement Section 603 of Public Law 100-656 which changes the reporting official for the Office of the Secretary of Defense, Director of the Small and Disadvantaged Business Utilization Office.

Replacement pages: 219.2-2 and 219.2-6.

ITEM VI--EXEMPTION OF COMMISSARY RESALE ITEMS FROM SMALL DISADVANTAGED BUSINESS EVALUATION PREFERENCE (INTERIM RULE)

DFARS 219.7000(a) is revised to exempt items purchased for commissary resale from the application of the small disadvantaged business 10 percent evaluation preference. This interim rule is effective immediately.

Replacement page: 219.70-1.

ITEM VII--CONTRACTOR MATERIAL MANAGEMENT AND ACCOUNTING SYSTEMS (MMAS) (FINAL RULE)

The FY 89 Defense Authorization Act, Public Law 100-456, required the Secretary of Defense to prescribe regulations containing standards and appropriate certification and enforcement requirements for contractor inventory accounting systems. The following changes have been made to implement this requirement:

(a) Paragraph 232.503-15(d) is added to identify the conditions under which the ACO may grant blanket approval for material transfers between contracts.

(b) A new Subpart 242.72, Contractor Material Management and Accounting Systems, is added.

(c) The clause at 252.242-7001 is added to incorporate the requirements of the new subpart into appropriate contracts.

(d) Subparagraph 245.505-3(f)(2)(ii) is added to allow the contractor's material control system to physically commingle inventories that may include materials for which costs are charged or allocated to fixed-price, cost-reimbursement, and commercial contracts so long as the contractor has adequate controls to ensure that the requirements of 242.7206 are met.

(e) In addition, Section 242.302, Contract Administration Functions, is revised to incorporate the evaluation of contractor MMAS's into the list of ACO responsibilities.

Contracting officers should note that the new standards and enforcement requirements are broadly worded and require the exercise of sound judgment to achieve effective implementation. Furthermore, the new coverage requires careful coordination, communication, and understanding among the DCAA auditor, the contractor, and the ACO staff.

This rule is effective immediately.

Replacement pages: (see next page)

ITEM VII (Continued)

Replacement pages: 232.5-5, 242.3-1, 242.72-1 through 242.72-7, 245.5-1, and 252.242-1 through 252.242-3.

ITEM VIII--PROMPT PAYMENT (FINAL RULE)

DFARS Subpart 232.9 is revised to be consistent with the Federal Acquisition Regulation (FAR) incorporation of Public Law 100-496, Prompt Payment Act Amendments of 1988. The revisions change the number of days available for constructive acceptance of approval from 5 working days to 7 calendar days. Other editorial changes are made to conform the DFARS coverage to the FAR.

Replacement pages: 232.9-1 and 232.9-2.

ITEM IX--RESEARCH AND DEVELOPMENT BIDDERS MAILING LISTS (FINAL RULE)

DFARS 235.004 is revised to delete reference to DAR Supplement No. 4, which is hereby canceled, and to provide guidance for use of SF 129 which will be used in place of DD Form 1630. A proposed rule with request for comments was published in the **Federal Register** on 19 January 1989 (54 FR 2166). No public comments were received.

Replacement pages: Table of Contents, page 15, 235.0-4 and 235.0-5.

ITEM X--DD FORM 1659, APPLICATION FOR U.S. GOVERNMENT SHIPPING DOCUMENTATION/INSTRUCTIONS (FINAL RULE)

DD Form 1659, Application for U.S. Government Shipping Documentation/Instructions, used by contractors to obtain Government shipping documentation and/or instructions, has not been revised since 1978. Revision was necessary as a result of changes in the transportation environment. Block 20 has been added to clearly determine whether or not the proposed shipment is hazardous. Other changes have been made to coincide with the recent revision of SF 1103, U.S. Government Bill of Lading. Finally, the form incorporates format improvements, particularly column definitions and totals for container and commodity data (Block 21).

Replacement pages: Part 253, Table of Contents, page 6; 253.3-77, and 253.3-78.

ITEM XI--EDITORIAL CORRECTIONS (FINAL RULE)

(a) DFARS 211.002 is revised and 211.005 is deleted because the language provided in the coverage is no longer prescribed in Appropriations Acts subsequent to the 1983 Supplemental Appropriations Act (Public Law 98-63) or the 1984 DoD Appropriations Act (Section 779, Public Law 98-212).

(b) DFARS 215.804-3(i) is revised to reflect the correct citation for 10 U.S. Code.

Replacement pages: 211.0-1 and 215.8-3.

ITEM XII--CORRECTION TO DAC #88-1

DAC #88-1, Item XIV, paragraph (a) is corrected to read:

"(a) DFARS 215.811-78(b)(8)(i) is revised to change the referenced paragraph to read (6) instead of (4)."

ITEM XIII--CORRECTIONS TO DAC #88-5

DAC #88-5 is corrected as follows:

(a) Replacement page 207.1-7 (DAC #88-5), which was inadvertently omitted from the replacement pages included in DAC #88-5, is provided in this DAC. In the instructions for replacement pages, under the heading "Insert the following pages:", "207.1-5 and 207.1-6" is changed to read "207.1-5 through 207.1-7". (Note: Page 207.1-7 (DAC #88-5) is replaced by page 207.1-7 (DAC #88-7).)

(b) In the instructions for replacement pages, under the heading "Remove the following pages:", "215.8-29 and 215.8-30" is changed to read "215.8-29"; "235.70-1 through 235.70-4" is changed to read "235.70-1 through 235.70-5"; and "252.235-5 through 252.235-15" is changed to read "252.235-5 through 252.235-16".

(c) In the instructions for replacement pages, under the heading "Insert the following pages:", "207.1-5 and 207.1-6" is changed to read "207.1-5 through 207.1-7)."252.235-5 through 252.232-14" is changed to read "252.235-5 through 252.235-14".

DAC #88-7

REPLACEMENT PAGES

Remove the following pages:	Insert the following pages:
Table of Contents, page 15	Table of Contents, page 15
204.2-1 and 204.2-2	204.2-1 and 204.2-2
207.1-7 (DAC #88-5) (See Item XIII(a) of this DAC)	207.1-7 (DAC #88-7)
208.79-1 through 208.79-3	208.79-1 through 208.79-3
211.0-1	211.0-1
215.8-3 and 215.8-4	215.8-3 and 215.8-4
215.8-19 and 215.8-20	215.8-19 and 215.8-20
217.72-1 and 217.72-2	217.72-1 and 217.72-2
219.2-1 through 219.2-10	219.2-1 through 219.2-10
219.70-1 and 219.70-2	219.70-1 and 219.70-2
232.5-5	232.5-5
232.9-1	232.9-1 and 232.9-2
235.0-3 through 235.0-12	235.0-3 through 235.0-13
242.3-1	242.3-1
-----	242.72-1 through 242.72-7
245.5-1 and 245.5-2	245.5-1 and 245.5-2
252.208-5 through 252.208-7	252.208-5 through 252.208-7
252.242-1 and 252.242-2	252.242-1 through 252.242-4
Part 253, Table of Contents, pages 5 and 6	Part 253, Table of Contents, pages 5 and 6
253.3-77 and 253.3-78	253.3-77 and 253.3-78

NOTE: DFARS manuals and supplements are not included in the subscription to the DFARS and must be purchased separately from the Government Printing Office.

MANUALS

Armed Services Pricing Manual (ASPM) (1986)
Armed Services Pricing Manual, Volume 2, Price Analysis (1987)
Small Purchase Manual (ASPM No. 2) (31 MAR 76)

SUPPLEMENTS

DAR Supplement No. 1--Contractor Purchasing System Review (CPSR) Program (DARS No. 1) (31 MAR 82)
ASPR Supplement No. 2--Canceled.
ASPR Supplement No. 3--Property Administration (ASPS No. 3) (1 OCT 75)
ASPR Supplement No. 4--Canceled.
ASPR Supplement No. 5--Procurement of Utility Services (ASPS No. 5) (1 OCT 74)
DAR Supplement No. 6--DoD Spare Parts Breakout Program (DARS No. 6) (25 NOV 88)

NOTE: ASPR Supplements Nos. 3 and 5 are being reviewed and will be either canceled or revised. They are no longer available from the Government Printing Office.

PART 204--ADMINISTRATIVE MATTERS
SUBPART 204.2--CONTRACT DISTRIBUTION

204.201 Procedures.

(e) One copy of each of the following type contracts and of each modification thereto shall be distributed to the appropriate Defense Contract Audit Agency (DCAA) field audit office (listed in the DCAA Directory--Headquarters and Field Offices):

(1) Cost reimbursement

(2) Time-and-materials

(3) Labor-hour

(4) Fixed price contracts with provisions for redetermination, incentives, economic price adjustment, or cost allowability

(5) Any other contract which requires audit service. (If there is a question as to the appropriate DCAA field audit office, contracting officers may request the assistance of the DCAA procurement liaison auditor or the nearest DCAA field audit office.)

(f) Two copies shall be distributed directly to the contract administration office cognizant of each manufacturing location where contract administration services will be required (see DoD Directory of Contract Administration Services Components 4105.59H), when administration of the contract is performed at other than the place of manufacture.

204.202 DoD Distribution Requirements.

(a) The contracting officer executing a contract or modification is responsible for complete distribution of the document.

(b) Except as provided in this paragraph and FAR 4.201(a), the procuring contracting officer shall maintain the original executed procurement document in the official contract file. The original of each modification executed by the ACO or TCO shall be provided to the PCO. Unless otherwise directed by the Department concerned, the original executed copies of orders under Basic Ordering Agreements and the original executed provisioning orders shall be maintained by the office issuing the orders.

(c) In addition to the distribution in FAR 4.201, copies of contracts (including agreements) shall be distributed as specified below:

(1) four copies to the contract administration office (distribution shall be effected simultaneously with the copy furnished under FAR 4.201(b));

(2) one copy to each consignee indicated in the contract (a transshipping terminal is not a consignee);

(3) one copy to the appropriate transportation office when required by FAR 42.1402, and additional copies as required by Departmental regulations;

(4) ten copies to the MIPR initiating activity in the case of coordinated procurement;

(5) one copy to the CAO ADP point, except when the DoDAAD code (see DoD Directory 4105.59H) is the same as that of either the CAO or payment office.

(d) When a payment office is added to, or changed under, an existing contract by modification, a copy of the basic contract and all modifications thereto shall be furnished to the added/new payment office. A copy of the modification affecting such addition or change shall also be furnished to the original or losing payment office. When a contract administration office, an accounting office and finance office (funding office), a consignee or other activity is added by a modification, the contracting officer shall determine the extent to which each activity is concerned with the basic contract and modifications and make distribution accordingly.

(e) Distribution of modifications issued pursuant to 204.7004-3(a)(2)(ii) and 204.7004-4(b)(2) may be limited to the following:

(1) Contractor;
(2) Receiving Activity;
(3) Contract Administration Office;
(4) Payment Office;
(5) CAO ADP point in accordance with (c)(5) above.

(f) Distribution of overhead rate agreements may be limited to the contractor and the executing contracting officer.

(g) Distribution of contract modifications generated by mechanical means (computer program) may be limited to the following:

(1) Contractor, one copy;
(2) CAO, one copy;
(3) New Payment Office, one copy;
(4) PCO, one copy;
(5) Funding Activities, one copy to each.

204.203 Taxpayer Identification Number (TIN) Information. For DoD, if the TIN or corporate status are derived from a source other than the provision at FAR 52.204-3, the last page of the copy of the contract forwarded to the paying office will be annotated to state the contractor's TIN and corporate status.

(viii) Incentives. When appropriate, discuss plans for providing for incentives to contractors to improve productivity through investment in capital facilities, equipment, and advanced technology.

(ix) Alternative acquisition approaches considered. Briefly discuss the merits and shortcomings of other approaches.

(x) Milestones for the contract cycle. Address those steps in FAR 7.105(b)(18) and any others, as appropriate.

(xi) Spares Acquisition Integrated with Production (SAIP). Specifically address consideration of the SAIP concept and plans for implementation during the full-scale development and production phases of the program. (See 217.7205 and DoDI 4245.12.)

(xii) Other considerations, as applicable.

NOTE: This page to be filed with replacement pages (see Item XIII(a) of this DAC), and not to be filed as part of DAC #88-7. However page 207.1-7 in this circular (marked "DAC #88-7") will be filed per the filing instructions of this DAC.

(viii) Incentives. When appropriate, discuss plans for providing for incentives to contractors to improve productivity through investment in capital facilities, equipment, and advanced technology.

(ix) Alternative acquisition approaches considered. Briefly discuss the merits and shortcomings of other approaches.

(x) Milestones for the contract cycle. Address those steps in FAR 7.105(b)(18) and any others, as appropriate.

(xi) Spares Acquisition Integrated with Production (SAIP). Specifically address consideration of the SAIP concept and plans for implementation during the full-scale development and production phases of the program. (See 217.7205 and DoDI 4245.12.)

(xii) Other considerations, as applicable.

207.106 Additional Requirements for Major Systems.

(b)(1) 10 U.S.C. 2305(d)(4)(A) provides that, except where the Government is otherwise entitled to unlimited rights in technical data (see 227.472-3(a)), in solicitations for development or production of major systems, the contracting officer shall not require offers that would enable the Government to use technical data to competitively reprocure identical items or components of the major system if the item or component was developed exclusively at private expense, unless the contracting officer determines that:

(i) the original supplier of the item or component will be unable to satisfy program schedule or delivery requirements; or

(ii) proposals by the original supplier of the item or component to meet mobilization requirements are insufficient to meet the agency's mobilization needs.

(2) 10 U.S.C. 2305(d)(4)(B) provides in part that for competitive solicitations, if offers referred to in paragraph (b)(1) above are required, the evaluation of items developed at private expense (other than items for which the Government is otherwise entitled to unlimited rights in technical data) shall be based on an analysis of the total value, in terms of innovative design, life-cycle costs, and other pertinent factors, of incorporating such items in the system.

PART 208--REQUIRED SOURCES OF SUPPLIES AND SERVICES
SUBPART 208.79--ANTIFRICTION BEARINGS

208.7900 Definitions.

As used in this subpart:

"Bearing components" means bearing elements, retainers, inner races, or outer races.

"Bearings" means antifriction bearings.

"Commercial product" is as defined in FAR 11.001, except that for purposes of this subpart it does not include (a) items designed or developed under a Government contract, or (b) bearings or bearing components.

"Custom/Specialty Bearings" means those bearings having tolerances equivalent to super-precision bearings or greater, and those bearings which contain components or have assembly characteristics that meet or exceed ABEC/RBEC 5.

"Domestic manufacture" means wholly manufactured in the United States or Canada. When a bearing assembly is involved, all components of the assembly must be wholly manufactured in the United States or Canada. Unless otherwise specified, raw materials, such as preformed bar, tube or rod stock and lubricants, need not be domestically mined or produced.

"Miniature and instrument ball bearings" means rolling element ball bearings having a basic outside diameter (exclusive of flange diameters) of 30 millimeters or less, irrespective of material, tolerance, performance, or quality characteristics (see 208.73).

"Super-precision Bearings" means bearings having a precision classification of ABEC/RBEC 5 or higher.

208.7901 Applicability. This subpart does not apply to:

(a) Commercial products as defined in this subpart;

(b) Miniature and instrument bearings restricted by subpart 208.73;

(c) Bearings covered by the following Military Specifications, for contracts entered into prior to December 31, 1989:

Mil B 6039	Bearing, double row, ball, sealed rod end, antifriction, self-aligning
Mil B 7949	Bearing, ball, airframe, antifriction
Mil B 8952	Bearing, roller, rod end, antifriction self-aligning

208.7902 Policy.

The United States bearing industry has eroded during the last decade. Failure to halt this erosion will result in an industry unable to meet industrial surge and mobilization requirements for bearings. In view of the national security significance of bearings, the Department of Defense has determined that except as provided in 208.7901, all bearings, bearing components, or bearings contained in items, whether procured directly or installed in defense end-items and subassemblies shall be of domestic manufacture. This restriction shall remain in effect for contracts awarded through September 30, 1991. The restriction may be extended an additional two years if conditions warrant.

208.7903 Waiver Procedures for Contracts of 12 Months or Less.

(a) The Head of the Contracting Activity, without delegation, may waive the domestic bearings requirements of this subpart by making a determination that there is no domestic bearing manufacturer that meets the requirement or that it is not in the best interest of the United States to qualify a domestic bearing to replace a qualified nondomestic bearing. This determination must be based on a finding that the qualification of a domestically manufactured bearing would cause unreasonable costs or delays.

(b) The finding of unreasonableness should be made in consideration of the DoD policy to assist the United States industrial mobilization base by awarding more contracts to domestic bearing manufacturers, thereby increasing their capability to reinvest and to become more competitive.

208.7904 Waiver Procedures for Contracts Exceeding 12 Months. The procedures described in 208.7903 shall apply also to contracts exceeding 12 months; however, before a waiver is granted for a multiyear contract or contract that may exceed 12 months, the contracting officer shall require offerors to submit a written plan for transitioning from the use of nondomestic to domestically manufactured bearings. The plan shall be reviewed to determine whether a domestically manufactured bearing can be qualified at a reasonable cost, and used in lieu of the foreign bearing during the course of the contract period. If acceptable, the plan shall be incorporated in the contract and shall:

(a) Identify the bearings that are not domestically manufactured, the application, and source of supply;

(b) Describe the transition, including cost and timetable, for providing a domestically manufactured bearing. The timetable for completing the transition should normally not exceed 24 months from the date the waiver is granted.

208.7905 Solicitation Provision and Contract Clause.

(a) Except as provided in (b) below, the clause set forth at 252.208-7006, Required Sources for Antifriction Bearings, shall be inserted in all solicitations and contracts.

(b) The requirements of (a) above shall not apply when:

(1) The contracting officer knows that the item beimg procured does not contain bearings;

(2) Purchasing foreign manufactured bearings, bearing components, or foreign manufactured products containing bearings overseas for use overseas;

(3) Purchasing bearings, bearing components, or items containing bearings for use in a cooperative or co-production project under an international agreement;

(4) Using small purchase procedures, other than in purchases of bearings as the end item.

PART 211--ACQUISITION AND DISTRIBUTION OF COMMERCIAL PRODUCTS

211.002 Policy. Contracting activities may use purchase descriptions which allow offerors to furnish commercial products and allow the Government to use commercial distribution systems whenever these products or distribution systems satisfy the Government's needs.

(A) the award is made to the offeror with the lowest evaluated price;

(B) when the award is split, if the combined price of both awards is the lowest evaluated price in the range of offers submitted; or

(C) when the combined price of both awards is not the lowest evaluated price in the range of offers submitted, if the price reasonableness of all prices awarded is clearly established on the basis of price analysis.

(ii) The procedures in paragraph (b)(S-70)(i) above may also be used in multiple source acquisitions, including those for the mobilization base.

(c)(6) In addition, cost or pricing data may be requested, if necessary, where there is such a disparity between the quantity being acquired and the quantity for which there is such a catalog or market price that pricing cannot reasonably be accomplished by comparing the two.

(e)(3) In anticipation of repetitive acquisitions of a catalog item, the contracting officer or the cognizant ACO may make special arrangements for submission of the exemption claim. The submission need not be on a Standard Form 1412, but shall include any data required by the form and include or incorporate by reference all the applicable definitions, representations and rights included in the form. Government approval of the exemption claim shall set forth the effective period, usually not more than one year, and require the contractor to furnish any later information that might raise a question as to the continuation of the exemption. Such approval may be extended to other Government contracting offices with their concurrence.

(i) Set forth below is a format for the D&Fs to be made by the agency head with respect to waiving the requirement for submission of cost or pricing data and certification thereof, as required by 10 U.S.C. 2306a(b)(2), and for waiving the inclusion of the required clauses. The format may be used also for the D&Fs for such waiver made by the Head of the Contracting Activity for contracts with foreign governments or agencies thereof.

(Military Department or Agency)
Determination and Findings
Authority to Waive Submission of Cost or Pricing Data and Certificate

Upon the basis of the following findings and determination which I hereby make as agency head ____(1)____, the requirement for submission of cost and pricing data and certificate described below may be waived pursuant to the authority of 10 U.S.C. 2306a(b)(2), as implemented by FAR 15.804-3(i).

Findings

1. The ____(2)____ proposes to enter into a contract with ____(3)____ for the acquisition of ____(4)____.
2. Pursuant to FAR 15.804-2, the proposed contractor is required to submit certified cost or pricing data. However, waiver of submission of the certified cost or pricing data described below is justified for the reasons indicated: ____(5)____.

Determination

1. The requirement for submission of cost or pricing data for the proposed contract action may be waived.

Date_____ _____

NOTES: (1) In the case of a contract with a foreign government or agency thereof, delete the words "agency head" and substitute therefor "head of a contracting activity."
(2) Contracting activity.
(3) Name of supplier.
(4) Brief description of supplies or services.
(5) Describe the cost or pricing data requirements to be waived. (The waiver may be partial, i.e. limited to particular cost or pricing data.) Set forth the circumstances and conditions which make the proposed contract action an exceptional case and state the reasons which justify the proposed waiver.

215.804-6 Procedural Requirements.

(b)(2) The following may be used with the SF 1411:

(i) When Contract Cost Data Reports are required by the purchase request, the contractor shall be required to submit DD Forms 1921 and/or 1921-1 to support the SF 1411. The DD Forms 1921 shall be prepared in accordance with the Contractor Cost Data Reporting (CCDR) System (Army - AMCP 715-8, Navy - OASN(S&L), CBM-CPR, and Air Force - AFLCP/AFSCP 800-15). The contractor supporting data shall be prepared in such a manner as to support each cost element on the DD Form 1921-1.

(ii) Contract Pricing Proposal Supporting Schedules may be devised by contracting offices to require such supporting data to the foregoing forms as is considered necessary and reasonable through knowledge of industry, company or commodity practices.

(c) To the extent possible, the understanding should relate to the contractor's formal estimating system. Notwithstanding the foregoing, significant matters important to contractor management and to the Government and any related data within the contractor's organization or the organization of a subcontractor or prospective subcontractor would be expected to be current on the date of agreement on price and, therefore, will be treated as reasonably available as of

(4) Identifies the sources of data and the estimating methods and rationale used in developing cost estimates;
(5) Provides for appropriate supervision throughout the estimating process;
(6) Provides for consistent application of estimating techniques;
(7) Provides for detection and timely correction of errors;
(8) Protects against cost duplication and omissions;
(9) Provides for the use of historical experience, including historical vendor pricing information, where appropriate;
(10) Requires use of appropriate analytical methods;
(11) Integrates information available from other management systems as appropriate;
(12) Requires management review including verification that the company's estimating policies, procedures and practices comply with this regulation;
(13) Provides for internal review of and accountability for the adequacy of the estimating system, including the comparison of projected results to actual results and an analysis of any differences;
(14) Provides procedures to update cost estimates in a timely manner throughout the negotiation process; and
(15) Addresses responsibility for review and analysis of the reasonableness of subcontract prices.

215.811-77 Indicators of Potentially Significant Estimating Deficiencies. Some indicators of conditions that may produce or lead to significant estimating deficiencies are listed below. These indicators are not intended as a comprehensive checklist. They may, however, suggest the need for further analysis or evaluation. Since estimating is not an exact science and is partly based on judgment, differences between individual estimates and subsequent actual data are not necessarily indications of a system deficiency.
(a) Failure to assure that relevant historical experience is available to and utilized by cost estimators as appropriate.
(b) Continuing failure to analyze material costs or failure to perform subcontractor cost reviews as required.
(c) Consistent absence of analytical support for significant proposed cost amounts.
(d) Excessive reliance on individual personal judgment where historical experience or commonly utilized standards are available.
(e) Recurring significant defective pricing findings within the same cost element(s).
(f) Failure to integrate relevant parts of other management systems (e.g., production control or cost accounting) with the estimating system so that the ability to generate reliable cost estimates is impaired.

(g) Failure to provide established policies, procedures and practices to persons responsible for preparing and supporting estimates.

215.811-78 Procedures.

(a) System Reviews. Cognizant audit and contract administration activities will establish and manage regular programs for reviewing selected contractors' estimating systems. Reviews and reports shall be accomplished as a contract audit and contract administration office team effort, with the contract auditor designated as team leader. Reviews shall be tailored to take full advantage of the day-to-day work done as an integral part of both the contract audit and contract administration activities. The program established by the contract audit activity shall be coordinated with the appropriate contract administration activity to ensure that team membership includes qualified technical specialists, and that adequate personnel resources are made available to accomplish the program. The ACO or a representative should coordinate the contract administration activity's review, consolidate findings and recommendations, and, when appropriate, prepare a comprehensive written report which shall be submitted to the auditor. The contract administration activity's written report shall be attached to the estimating survey team report. A system review shall be conducted at least every three years of a contractor required to make disclosure pursuant to 215.811-72 and paragraphs (d) and (e) of the clause at 252.215-7003, Cost Estimating System Requirements, except where the auditor, in coordination with the ACO, determines that past experience and a current vulnerability assessment of the pricing activity of a contractor discloses low risk. If the auditor and the ACO determine that the Government is subject to high risk, estimating system reviews should be done more frequently. To the extent possible, the team leader should inform the contractor and the ACO of significant findings during the conduct of the review. The team leader should apprise the contractor during an exit conference of any significant findings.

(b) Disposition of Survey Team Findings.

(1) Reporting of Survey Team Findings. The auditor will document the results of the system review in a report to the ACO. The report shall address the survey team findings and recommendations. If there are significant estimating deficiencies, the report shall recommend disapproval of all or a portion(s) of the estimating system.

(2) Field Pricing Reports. When the report of a system review indicates that there may be a significant estimating system deficiency, the effect of such deficiency shall be mentioned in the field pricing report for each contractor proposal reviewed until resolution of such deficiency.

(3) Contracting Officer Responsibility. The contracting officer responsible for negotiation of a specific proposal generated by an

PART 217--SPECIAL CONTRACTING METHODS
SUBPART 217.72--ACQUISITION OF COMPONENT PARTS

217.7201 Privately Developed Items.

217.7201-1 General. It is Department of Defense policy to provide an incentive to industry creativity by honoring the rights in data resulting from private development and by limiting the demands for such data to that which is essential for Government purposes. It is important that the efforts directed toward permitting full and open competition do not demand or use privately developed data in a manner which is contrary to the policies and procedures established in FAR Part 27. Accordingly, when the policy stated above produces situations which require the contracting officer to decide whether to procure data for future competitive acquisition, the provisions of Part 27, as supplemented by this paragraph, shall govern. For major weapons systems, see also section 207.106.

217.7201-2 Specific Acquisition Methods.

(a) When Defense requirements are for items which are available from more than one source as a result of either licensing, competitive copying, or independent development, the contracting officer shall provide for full and open competition for such items.

(b) When the Government desires to purchase privately developed items but does not have necessary data with unlimited rights for use in a specification for competitive acquisition, the contracting officer shall use one of the following alternative procedures in order of preference (see also 217.7203).

(1) When items of identical design are not required, the contracting officer shall provide for full and open competition using performance or other similar specifications, including purchase descriptions, which do not contain data pertaining to items, components or processes, developed at private expense to which the Government does not have unlimited rights. There are two methods of competitive procurement which may provide items of the same or similar design and suitable performance. One of these is purhcase by two-step sealed bidding. The other is by the use of "brand name or equal" purchase descriptions. To encourage participation by technically oriented firms that are desirous of offering their privately developed products in competition with similar articles, contracting activities should consider incorporating a requirement in the IFB or RFP for a bid sample to be used for evaluation purposes only (see 210.004(b)(3)(i)).

(2) When items of design or composition similar or identical to a privately developed item are required and other than full and open competition is authorized under Part 206, procurement should be from

the firm which developed or designed the item or process or its licensees, provided productive capacity and quality are adequate and price is fair and reasonable.

(3) When additional sources are required for items of design or composition similar or identical to a privately developed item in order to meet total current or mobilization requirements, and the procedures in (1) above cannot practicably be used to create additional sources, the developer should be encouraged to license others to manufacture such items. Procuring activities should also consider the specific acquisition by the Government of the necessary rights in data. When complex technical equipment is involved and the establishment of satisfactory additional sources will require, in addition to data, technical assistance from the primary source, consideration should be given to the use of the leader company acquisition technique (see FAR Subpart 217.4).

(4) As a last alternative, a design specification may be developed by the Government through inspection and analysis of the product (i.e. reverse engineering) and used for competitive acquisition. Reverse engineering shall not be used unless significant cost savings can be reasonably demonstrated and the action is authorized by the Head of the Contracting Activity.

217.7202 Component Breakout.

217.7202-1 Scope of Paragraph.

(a) This section sets forth guidance for making decisions on whether or not components should be acquired by the Government directly and furnished to an end item contractor as Government-furnished material, for incorporation in the end item. This paragraph, however, does not pertain to all such decisions, but only to those which deal with whether components that have been included as contractor-furnished material in a previous acquisition of the end item should be "broken out" from a forthcoming end item acquisition for direct Government acquisition. Thus, except as set forth in Part 207, this paragraph does not pertain to the initial Government-furnished equipment/contractor-furnished equipment decisions that must be made at the inception of an acquisition program.

(b) Parts acquired for replenishment are not covered by this paragraph, but are governed by 217.7203 and Supplement 6, Replenishment Parts Breakout Program.

(c) This section applies to acquisitions of weapons systems or other items of major equipment involving components whose direct acquisition by the Government may result in substantial net cost savings over the life of the acquisition program. The term "component", as used in this paragraph, includes subsystems,

PART 219--SMALL BUSINESS AND SMALL DISADVANTAGED BUSINESS CONCERNS
SUBPART 219.2--POLICIES

219.201 General Policy.

(a) In furtherance of the Government policy of placing a fair proportion of its acquisitions with Small Disadvantaged Business (SDB) Concerns and Historically Black Colleges and Universities (HBCUs) and Minority Institutions (MIs), Section 1207 of Public Law 99-661 and Section 806 of Public Law 100-180 established an objective for the Department of Defense of awarding a combined total of five percent of its total contract dollars during each of fiscal years 1987-89 to SDBs, HBCUs and MIs (see Subpart 226.70), and of maximizing the number of such entities participating in Defense prime contracts and subcontracts. It is the policy of the Department of Defense to strive to meet these objectives through the enhanced use of outreach efforts, technical assistance programs, the Section 8(a) Program, and the special authorities conveyed by Section 1207 and Section 806 (e.g., through the creation of an SDB set-aside, the use of evaluation preferences, and the use of advance payments, when appropriate under FAR Subpart 232.4). With regard to technical assistance programs, it is the Department's policy to provide SDB concerns technical assistance, to include information about the Department's SDB Program, advice about acquisition procedures, instructions on preparation of proposals, and such other assistance as is consistent with the Department's mission.

(b)(1) The Director of Small and Disadvantaged Business Utilization is responsible for the development of overall DoD small business and disadvantaged business goals and for consulting with SBA regarding the establishment of such goals.

(2) Departmental Directors of Small and Disadvantaged Business Utilization are responsible for the development of small business and disadvantaged business utilization goals for subordinate elements within their department. These goals will be further assigned by these subordinate elements as appropriate, such as engineer district offices or individual contracting divisions within a central contracting activity or major commodity command.

(3) Heads of contracting activities are responsible for the attainment of assigned small business and disadvantaged business utilization goals.

(4) Within 60 days after the conclusion of each fiscal year, the Secretaries of the Military Departments and the Directors of Defense agencies shall report to the Secretary of Defense on the extent of participation by small business concerns and disadvantaged business concerns in contracts awarded by their Department. Such report shall contain appropriate justifications for failure to meet goals established by the Office of the Secretary of Defense, as well as

actions planned to increase the rate of participation by such firms in future contract awards. The Office of the Secretary of Defense will submit information to SBA concerning any failure to meet established goals and actions to be taken to improve future performance.

(c)(3) The Department of Defense Director of Small and Disadvantaged Business Utilization is responsible only to and reports directly to the Secretary or the Secretary's designee.

(c)(9) The responsibility of the agency Director of Small and Disadvantaged Business Utilization for making recommendations as to whether a particular acquisition should be awarded under FAR Subparts 19.5, 19.8, or under one of the procedures authorized by Section 1207 of Public Law 99-661 is delegated to small and disadvantaged business utilization specialists.

(d)(1) Small and disadvantaged business utilization specialists shall be appointed by name, in writing, for contracting activities, contract administration offices, and other such offices, as the Departments consider appropriate. They shall be responsible directly to the appointing authority and shall not be subject to the direction of contracting, contract administration, or technical personnel. The appointing authority, without power of redelegation, is as follows:

(i) Army - Commanders of major commands, Commanders of major subordinate commands, and installation, post, camp, station or activity commanders. For each major command, one specialist will be appointed as the Associate Director for Small and Disadvantaged Business Utilization, reporting directly to the Commander or the second-in-command. The Associate Director will have primary responsibility for the effective implementation of the Army's small business, disadvantaged business utilization, labor surplus area and other socio-economic business programs within the Command. The Associate Director for Small and Disadvantaged Business Utilization Policy at Major Command Headquarters other than at the Army Materiel Command (AMC), Office, Chief of Engineers (OCE), Forces Command (FORSCOM), and Training and Doctrine Command (TRADOC), may be assigned on a part-time basis.

(ii) Navy - Head of a contracting activity or the official in charge of an activity having purchase authority of $10,000 or more, or in charge of a contract administration activity;

(iii) Air Force - Commander of each central contracting activity; the Wing/Base Commander of each local contracting office and the Chief of each contract administration activity. In addition, an Executive for Small and Disadvantaged Business Utilization shall be appointed by the Commander of each Major Air Command in the United States, not mandatorily reporting directly to the Commander but having ready access to such person, who will have primary responsibility for the

effective implementation of the Air Force small business, small disadvantaged business utilization and labor surplus area program(s) within the Command;

(iv) Defense Logistics Agency - Commanders of Defense Supply Centers, Commanders, Defense Contract Administration Services Regions and Commanders of other DLA contracting activities;

(v) National Security Agency - the Director;

(vi) Defense Communications Agency - the Director;

(vii) Defense Nuclear Agency - the Director;

(viii) Defense Mapping Agency - Director; directors of subordinate components;

(ix) Strategic Defense Initiative Organization - the Director.

A copy of each appointment and termination of appointment of all such specialists shall be forwarded to the appropriate Department or Agency Office of Small and Disadvantaged Business Utilization (219.201(71)). In addition to performing that portion of the specific program outlined in (2) below that is normally performed in the activity to which the specialist is assigned, the small and disadvantaged business utilization specialist shall advise the head of the activity and shall perform such additional functions as are prescribed for the specialist in furtherance of the overall small business, small disadvantaged business utilization and labor surplus area programs. A small and disadvantaged business utilization specialist shall be appointed on a full-time basis in all activities having sufficient business or program responsibility to justify such action. When the volume of contracting does not warrant assignment of a full-time small and disadvantaged business utilization specialist, an individual shall be appointed as the specialist on a part-time basis. The responsibilities of this assignment shall take precedence over collateral responsibilities.

(2) A small and disadvantaged business utilization specialist (SADBUS), appointed pursuant to the above, shall perform the following duties, as determined to be appropriate to the activity by the appointing officer or by the Departmental or Agency Director or Staff Director of Small and Disadvantaged Business Utilization. The SADBUS shall:

(i) maintain a program designed to locate capable small business, small disadvantaged business and labor surplus area business sources for current and future acquisitions, through SBA or other methods;

(ii) coordinate inquiries and requests for advice from small business, small disadvantaged business and labor surplus area business concerns on acquisition matters;

(iii) review acquisitions to insure maximum opportunity for participation by small, small disadvantaged business, women-owned, and

LSA concerns, and to make recommendations for set-aside and 8(a) awards (see 219.501(c));

(iv) when small business concerns cannot be given an opportunity to compete because adequate specifications or drawings are not available, unless there are sufficient and valid reasons to the contrary, initiate action, in writing, with appropriate technical and contracting personnel to insure that necessary specifications or drawings of the current or future acquisitions, as appropriate, are available;

(v) review acquisition programs for possible breakout of items suitable for acquisition from small business concerns;

(vi) ensure that financial assistance available under existing regulations is offered and that requests by small business concerns for proper assistance are not treated as a handicap in the award of contracts;

(vii) participate in determinations concerning responsibility of a prospective contractor whenever small business concerns are involved;

(viii) participate in the evaluation of a prime contractor's small business, labor surplus, and small disadvantaged business subcontracting plans;

(ix) review and make appropriate recommendations to the contracting officer on any proposal to furnish Government-owned facilities to a contractor if such action may hurt the small business program;

(x) assure that participation of small business concerns is accurately reported;

(xi) bring to the attention of the Department Director or Staff Director for Small and Disadvantaged Business Utilization possible contracting opportunities in labor surplus areas;

(xii) make available to SBA copies of solicitations when so requested;

(xiii) when a bid from a small business, small disadvantaged business or labor surplus area firm has been rejected for nonresponsiveness or nonresponsibility, upon request, aid, counsel and assist that firm in understanding requirements for responsiveness and responsibility so that the firm may be able to qualify for future awards;

(xiv) participate in government-industry conferences to assist small business, small disadvantaged business and labor surplus area concerns, including Business Opportunity/Federal Procurement Conferences, Minority Business Enterprises Procurement Seminars, and Minority Business Opportunity Committee meetings;

(xv) advise potential suppliers how they may obtain information about sealed bidding and negotiated acquisitions and that they may

subscribe to the Commerce Business Daily as a source of information on proposed acquisitions;

(xvi) brief the specialist's Commander at least once quarterly concerning the status of the installation's small business, small disadvantaged business utilization and labor surplus area programs in relation to goals and objectives established by higher headquarters;

(xvii) participate in the development, implementation and review of automated contracting systems to assure that the interests of small business, small disadvantaged business and labor surplus area firms are fully considered with particular reference to FAR 19.202-4(c), FAR 19.501(c), and FAR 19.502;

(xviii) assist program managers as early as possible in the development cycle of major system acquisitions and system programs as pertains to the small business programs;

(xix) assist contracting officers in establishing criteria for and determining acceptability of small business and small disadvantaged business concerns subcontracting plans submitted by prime contractors;

(xx) assure that the installation's small business, small disadvantaged business and labor surplus area business programs are frequently publicized in the appropriate media;

(xxi) assure that the organization maintains a list of products and services which have been placed on repetitive small business set-aside;

(xxii) provide small business, small disadvantaged business and labor surplus area firms information regarding assistance available from Federal agencies such as the Small Business Administration, Office of Minority Business Enterprise, Bureau of Indian Affairs, Office of Economic Development, National Science Foundation, Department of Labor and others including state, trade, and other associations;

(xxiii) be responsible for establishing an education and training program for personnel whose duties and functions affect the activity's small business, small disadvantaged business and firms located in labor surplus areas;

(xxiv) recommend to the specialist's Commander the activity small business and small disadvantaged business utilization overall goals and goals to be placed on subordinate contracting offices;

(xxv) participate in interagency programs relating to small business, small disadvantaged business and labor surplus area matters as authorized by the Director of SADBU; and

(xxvi) advise and assist contracting officers in discharging their responsibilities by:

(A) monitoring and reviewing contractor performance to determine compliance with small and small disadvantaged business subcontracting plans;

(B) developing and maintaining records and reports that reflect such compliance or noncompliance.

(xxvii) assist contracting officers to seek and develop information on the technical competence of Historically Black Colleges and Universities (HBCUs) and Minority Institutions (MIs), as defined at Subpart 226.70.

(xxviii) make recommendations to contracting officers as to whether a particular acquisition should be awarded under FAR Subpart 19.5 as a set-aside (including those involving Labor Surplus Areas), under FAR Subpart 19.8 as a Section 8(a) award, or under a procedure authorized by Section 1207 of Public Law 99-661;

(xxix) assist small business concerns in obtaining payments under their contracts, late payment interest penalties, or information on contractual payment provisions.

(S-70) Office of the Secretary of Defense Directors.

(1) Director of Small and Disadvantaged Business Utilization. The Director of Small and Disadvantaged Business Utilization is responsible for the overall management and direction of the DoD small business, disadvantaged business utilization, and labor surplus area programs and for advising the Secretary of Defense or designee in matters relating to these programs. To that end, the Director will provide guidance to the Departments and periodically review the direction and implementation of their activities in promoting contract awards to small business, small disadvantaged business, and labor surplus area concerns.

(2) Director of Small Business and Economic Utilization Policy. The Director of Small Business and Economic Utilization Policy is responsible for the establishment, implementation, and execution of DoD small business and labor surplus area programs. Negotiations with the SBA, the Office of Federal Procurement Policy, the Office of Management and Budget, and other agencies or departments outside the Department of Defense, concerning small business and labor surplus area policy, programs, and DoD goals shall be conducted by the Director of Small Business and Economic Utilization Policy or, with authorization, by representatives of the Departments. The Director of Small Business and Economic Utilization Policy, on behalf of the Director of Small and Disadvantaged Business Utilization, will provide guidance to the Departments' Directors of Small and Disadvantaged Business Utilization regarding small business and labor surplus area matters.

(3) Director of Disadvantaged Business Utilization Policy. The Director of Disadvantaged Business Utilization Policy is responsible for the establishment, implementation, and execution of the DoD socially and economically disadvantaged business utilization program. Negotiations with the Small Business Administration, the Office of

Federal Procurement Policy, the Office of Management and Budget, and other agencies or departments outside the Department of Defense, concerning disadvantaged business utilization policy, programs, and DoD goals shall be conducted by the Director for Disadvantaged Business Utilization Policy or, with authorization, by representatives of the Departments. The Director of Disadvantaged Business Utilization Policy, on behalf of the Director of Small and Disadvantaged Business Utilization, will provide guidance to the Departments' Directors of Small and Disadvantaged Business Utilization regarding disadvantaged business utilization matters.

(S-71) Departmental Directors of Small and Disadvantaged Business Utilization.

(1) Each department or agency shall maintain an Office of Small and Disadvantaged Business Utilization as follows:

(i) Army - Director, Office of Small and Disadvantaged Business Utilization, Office of the Secretary of the Army, Pentagon, Washington, D.C. 20310;

(ii) Navy - Director, Office of Small and Disadvantaged Business Utilization, Office of the Secretary of the Navy, Washington, D.C. 20360;

(iii) Air Force - Director, Office of Small and Disadvantaged Business Utilization, SAF/SB, Pentagon, Washington, D.C. 20330;

(iv) Defense Logistics Agency - Staff Director, Office of Small and Disadvantaged Business Utilization, Code DLA-U, Cameron Station, Alexandria, VA 22314;

(v) National Security Agency - Director, Office of Small and Disadvantaged Business Utilization, Fort Meade, MD 20755;

(vi) Defense Communications Agency - Director, Office of Small and Disadvantaged Business Utilization, Code 260, Washington, D.C. 20035;

(vii) Defense Nuclear Agency - Director, Office of Small and Disadvantaged Business Utilization, (Code OAFR), Washington, D.C. 20305;

(viii) Defense Mapping Agency - Director, Office of Small and Disadvantaged Business Utilization, Headquarters, Washington, D.C. 20305.

(ix) Strategic Defense Initiative Organization - Director of Small and Disadvantaged Business Utilization, Headquarters, Washington, D.C. 20301-7100.

(2) Each Departmental Office of Small and Disadvantaged Business Utilization shall be managed by a Director who shall be appointed by the Secretary of the Department and shall be responsible to and report directly to the Secretary or Under Secretary of the Department. Directors of Defense agencies shall appoint a Staff Director for Small and Disadvantaged Business Utilization who shall be responsible to and report directly to the Director or the Deputy Director.

(3) The primary responsibility of the Director or Staff Director of each Office of Small and Disadvantaged Business Utilization shall be in matters concerning small business, small disadvantaged business utilization, and labor surplus areas. The Director or Staff Director advises the Secretary on small business, small disadvantaged business utilization and labor surplus area matters, implements such DoD programs within the Department or Agency and represents the Department or Agency in negotiations with other Departments or Governmental agencies on small business, small disadvantaged business utilization and labor surplus area matters. The Director or Staff Director will exercise supervisory authority over Department or Agency Small and Disadvantaged Business Utilization Specialists regarding small business, disadvantaged business utilization and labor surplus area matters. Appointment of Small and Disadvantaged Business Utilization Specialists shall be made after consultation with the Director or Staff Director of the Office of Small and Disadvantaged Business Utilization of the Department or Agency involved. In addition, such Director shall be afforded an opportunity to comment upon, and contribute to the performance evaluations of the Specialists for the contracting activities and contract administration offices or major organizational elements of the Department involved, including pay pursuant to the Civil Service Reform Act of 1978.

(S-72) Small Business Technical Advisor.

(1) The Military Departments shall assign small business technical advisors to assist each resident SBA Procurement Center Representative in the performance of the duties of the representative.

(2) A Small Business Technical Advisor (SBTA) shall be a full-time employee of the contracting activity and shall be well qualified, technically trained, and familiar with the supplies or services acquired at the activity.

(3) The principal duty of this advisor shall be to assist the SBA Procurement Center Representative in that person's duties and functions relating to Sections 8 and 15 of the Small Business Act. Providing such assistance shall take precedence over any other collateral duties that may be the responsibility of the SBTA.

219.202 Specific Policies.

219.202-1 Encouraging Small Business Participation in Acquisitions.

(S-70) Encouraging Small and Small Disadvantaged Business Participation in Acquisitions. The Departments to the extent consistent with the best interests of the Government and in order to broaden the industrial base shall:

(1) attempt to locate additional qualified small business suppliers by all appropriate methods including use of the assistance

of SBA, particularly where only a limited number of small business concerns are on bidders' mailing lists;

(2) give wide publicity to contracting methods and practices;

(3) publicize proposed acquisitions by use of advance notices or other appropriate methods (see FAR 5.2);

(4) include all established and qualified potential small business suppliers on mailing lists;

(5) send solicitations to all firms on the appropriate list, except that where less than a complete list is to be used pursuant to FAR 14.205-4, at least a pro rata number of small business concerns shall be solicited;

(6) divide proposed acquisition of supplies and services, except construction, into quantities not less than economic production runs, so as to permit bidding on quantities less than the total requirements; allow the maximum time practicable for preparation and submission of bids, proposals, or quotations; where feasible, establish delivery schedules which will encourage small business participation;

(7) examine each major acquisition to determine the extent to which small business subcontracting should be encouraged or required;

(8) use small business concerns to the maximum extent feasible as planned producers in the Industrial Readiness Planning Program;

(9) maintain liaison with Federal, State (including Governor's Commissions), and local agencies and other organizations for the purpose of providing information and assistance to small business concerns; and

(10) require that contracting officers emphasize the award of contracts to SDBs in all industry categories in which SDBs have not traditionally dominated.

219.202-5 Data Collection and Reporting Requirements.

(a) Records of the total value of contracts and subcontracts placed with small business concerns during each fiscal year shall be maintained by the use of DD Form 350 (Individual Procurement Action Report), DD Form 1057 (Monthly Procurement Summary by Purchasing Office), Standard Form 294 (Subcontracting Report for Individual Contracts), and Standard Form 295 (Summary Subcontract Report), as appropriate.

(b) The contracting officer shall insert the following format in the contract file for each award of a letter contract, a definitive contract superseding a letter contract, an initial definitive contract, orders under a BOA, and additional work under a new agreement (including options exercised at time of award) of $25,000 or greater, whenever such award is (1) the result of an SDB set-aside (219.502-72) or an HBCU/MI set-aside (226.7004), (2) based on the

application of an evaluation preference for SDBs (Subpart 219.70), or (3) based on preferential consideration of SDBs (219.502-3(S-70)). When awarded based upon an SDB set-aside under 219.502-72 or an HBCU/MI set-aside under 226.7004, the amount entered in item 5 will be the fair market price determined in accordance with FAR 19.806-2. When awarded based upon preferential consideration under 219.502-3(S-70), the amount entered in item 5 will be the highest unit price for each item awarded on the non-set-aside portion, multiplied by the applicable set-aside quantity. When awarded based upon an evaluation preference under Subpart 219.70, the amount entered in item 5 will be the value of the otherwise responsive offer prior to application of the evaluation percentage.

Preference Percentage Paid on Small Disadvantaged Business (SDB) and Historically Black Colleges and Universities and Minority Institutions (HBCUs/MIs) Awards $25,000, and Over

1. Contract number _____.
2. Modification number (if appropriate) _____.
3. Award date _____.

	(whole dollars)
4. Award price (including options exercised):	_____
5. Total value of fair market price:	_____
6. Difference ((4) minus (5)):	_____
7. Premium percent ((6) divided by (5)):	_____

PART 219--SMALL BUSINESS AND SMALL DISADVANTAGED BUSINESS CONCERNS
SUBPART 219.70--EVALUATION PREFERENCE FOR SMALL DISADVANTAGED BUSINESS (SDB) CONCERNS

219.7000 Policy.

(a) In furtherance of the Department of Defense objectives and initiatives undertaken to award acquisitions in all industrial categories in which small disadvantaged businesses (SDBs) have not dominated and to meet the five percent goal for SDBs established by Section 1207 of Public Law 99-661 and Section 806 of Public Law 100-180 (see 219.201), offers from SDB concerns shall be given an evaluation preference in accordance with the procedures of this subpart. The evaluation preference shall only be used in competitive acquisitions except as provided in (b) below, where award is based on price and price related factors. However, in no event may award be made at a price which exceeds fair market price (see FAR 19.806-2) by more than 10 percent. The evaluation preference shall not apply when making--

(1) purchases using small purchase procedures;

(2) total SDB set-asides;

(3) partial set-asides for LSA concerns;

(4) partial small business set-asides;

(5) purchases under the Trade Agreements Act, when the acquisition equals or exceeds the dollar threshold referenced in FAR 25.402;

(6) purchases where application of the evaluation preference would be inconsistent with any international agreement, Memorandum of Understanding, etc. with a foreign government;

(7) total small business set-asides; and

(8) purchases for commissary resale.

(b) Subject to the exceptions in (a) above, the evaluation preference may also be used in other competitive acquisitions, at the discretion of the source selection authority, when (1) SDBs are expected to possess the requisite qualifications, consistent with the demands of the acquisition (e.g., see FAR 35.007 with regard to technical qualification of sources) and, (2) award price will not exceed fair market price by more than 10 percent.

219.7001 Procedures. Offers will be evaluated so as to give a preference to offers submitted by SDB concerns. Each responsive offer, other than offers from SDB concerns, shall be adjusted for the purpose of price evaluation by adding a factor of 10 percent. The factor shall be applied on a line-item by line-item basis or to any group of line items on which award may be made as specifically provided by the solicitation. However, SDB offerors may request that

the evaluation preference not be applied (see 252.219-7007(b)). Other evaluation factors (e.g., transportation, rent-free use of Government facilities) shall be applied to prices offered prior to application of the factor.

219.7002 Contract Clause.

When the evaluation preference as described in 219.7000 is used, the contracting officer shall insert the clause at 252.219-7007, Notice of Evaluation Preference for Small Disadvantaged Business Concerns (Unrestricted).

(S-74) If the contract is a letter contract, the contracting officer shall use the clause with its Alternate II if the contract is funded with FY 87 appropriations. The FAR clause at 52.232-16, with its Alternate II, shall be used for all other letter contracts.

232.503 Postaward Matters.

232.503-1 Contractor Requests. Subject to the specific requirements of agency procedures, contractor requests for progress payments may be submitted by computer generated equivalents of the Standard Form 1443.

232.503-6 Suspension or Reduction of Payments.

(g) Loss Contracts.

(S-70) Loss Ratio Adjustment Procedures. The following procedures shall be followed whenever the adjustments required by FAR 32.503-6(f) and (g) are made:

(i) Except as provided in paragraph (ii) below, the loss ratio adjustment shall be calculated by the contracting officer using the procedures in FAR 32.503-6(g) by preparation of a supplementary analysis to the contractor's request for progress payments;

(ii) The Contractor may be requested to prepare the supplementary analysis as an attachment to the progress payment request, when the contracting officer determines, after a review, that the contractor's methods of estimating the Costs to Complete are reliable, accurate, and not susceptible to improper influences, prejudicial to the Government's interests; and

(iii) In order to maintain an audit trail, and permit verification of calculations, the loss ratio adjustment shall not be made by alteration or replacement of the data on the contractor's original request for progress payment (SF 1443 or computer generated equivalent).

232.503-15 Application of Government Title Terms.

(d) The approval requirements of FAR 32.503-15(d) are met when the ACO has determined that the contractor's material management and accounting system conforms to the standard at 242.7206(b)(7). ACO blanket approval of cost transfers between contracts should be contingent upon the contractor retaining records of the transfer activity that took place in the prior month and reporting, at least monthly, a summary of the transfer activity that took place in the prior month. The summary report should include as a minimum, the total number of transfers and their dollar value.

PART 232--CONTRACT FINANCING
SUBPART 232.9--PROMPT PAYMENT

232.905 Invoice Payment.

(a)(1)(ii) It is expected that in the majority of cases, Government acceptance or approval can occur within the 7-day constructive acceptance period specified in the Prompt Payment clause at FAR 52.232-25(a)(6). However, the contracting officer should coordinate this provision with the Government office that will be responsible for the acceptance or approval function. The contracting officer should specify a longer period where 7 days is not reasonable or practical. Considerations include, but are not limited to, the nature of supplies or services being accepted, inspection and testing requirements, shipping and acceptance terms, and resources available at the acceptance activity. A period less than 7 days is not authorized.

(b)(4) It is expected that in the majority of cases, Government acceptance or approval can occur within the 7-day constructive acceptance period specified in the Prompt Payment for Fixed-Price Architect-Engineer Contracts clause at FAR 52.232-26(a)(5). However, the contracting officer should coordinate this provision with the Government office that will be responsible for the acceptance or approval function. The contracting officer should specify a longer period where 7 days is not reasonable or practical. Considerations include, but are not limited to, the nature of supplies or services being accepted, inspection and testing requirements, shipping and acceptance terms, and resources available at the acceptance activity. A period less than 7 days is not authorized.

(c)(1) It is expected that in the majority of cases, payment of construction contract progress payments can be made within the 14 days specified in the Prompt Payment for Construction Contracts clause at FAR 52.232-27(a)(1). However, the contracting officer should coordinate this provision with the Government office that will be responsible for the acceptance or approval function. The contracting officer should specify a longer period where 14 days is not reasonable or practical. Considerations include, but are not limited to, the nature of the work, inspection and testing requirements, and resources available at the acceptance activity. A period less than 14 days is not authorized.

(c)(5) It is expected that in the majority of cases, Government acceptance or approval can occur within the 7-day constructive acceptance period specified in the Prompt Payment for Construction Contracts clause at FAR 52.232-27(a)(4). However, the contracting officer should coordinate this provision with the Government office

that will be responsible for the acceptance or approval function. The contracting officer should specify a longer period where 7 days is not reasonable or practical. Considerations include, but are not limited to, the nature of supplies or services being accepted, inspection and testing requirements, shipping and acceptance terms, and resources available at the acceptance activity. A period less than 7 days is not authorized.

232.906 Contract Financing Payments.

(a) The Department of Defense's policy is to make contract financing payments as expeditiously as possible. Generally, the standard due date to be specified by the contracting officer in the Prompt Payment clauses at FAR 52.232-25(b)(2), 52.232-26(b)(2), and 52.232-27(b)(2) is 7 days for progress payments and 14 days for interim payments on cost type contracts. The contracting officer, however, should coordinate payment terms with offices that will be involved in the payment process to ensure that terms specified can be reasonably met. Consideration should be given to geographical separation, workload, contractor ability to submit a proper request, and other factors that could affect timing of payment. Where justified, the contracting officer may specify a due date greater than, but not less than, the standard.

(ii) the research effort has only minor relevance to the commercial activities of the contractor, and the organization is proposing to undertake the research primarily as a service to the Government; or

(iii) the contractor has few or no private sources of funds from which to make a cost contribution. Cost sharing should generally not be requested if cost sharing would mean that the Government would have to provide funds through some other means (such as fees) to enable the contractor to cost share. Those contractors predominantly engaged in research and development and having little or no production or other service activities may not be in a favorable position to make a cost contribution.

(iv) when the contractor is an educational institution or nonprofit organization, cost sharing in most cases would not be appropriate in view of their nonprofit status and limited ability to recover cost participation from non-government sources.

(b)(S-72) Amount of Cost Sharing. When cost sharing, the amount of cost participation by the contractor may vary in accordance with a number of factors related to the contractor's organization (profit or nonprofit), and the character of the research effort such as the following:

(i) The amount of cost participation by contractors should depend to a large extent on whether the research effort or results are likely to enhance the contractor's capability, expertise, or competitive position, and the value of such enhancement to the contractor (but see paragraph (v) below).

(ii) If the contractor will not acquire title or the right to use inventions, patents, or technical information resulting from the research project, less contractor cost sharing is appropriate than in cases in which the contractor acquires such rights.

(iii) Less contractor cost sharing is appropriate when an area of research requires special stimulus in the national interest.

(iv) The amount of contractor cost sharing may be reduced to reflect the fact that the organization is foregoing a normal fee or profit on the research.

(v) When an educational institution or nonprofit organization agrees to absorb a portion of the research costs in the expectation of substantial compensating benefits, the amount of sharing should normally be between 1% and 5% of the total contract cost.

(b)(S-73) Administration.

(i) Cost participation may be accomplished by a contribution to either direct or indirect costs, provided that such costs would otherwise be allowable in accordance with any cost principles applicable to the contract, and that the costs are not charged to the Government under any other grant or contract.

(ii) The amount of cost participation by a contractor may be determined for each individual research contract or, if the contracting officer desires, for the aggregate of all or some of the contractor's research projects supported by DoD. When the amount of cost sharing is determined for individual projects, the contracting officer may consider the contractor's participation over the total term of the project so that a relatively high contribution in one year may be offset by a relatively low contribution in another year. If the amount of the contractor's cost sharing is to be determined for the aggregate of all or some of DoD's projects, relatively high contributions on some projects may be offset by relatively low contributions on other projects.

(c) Recoupment. The policy and procedures in Subpart 235.71 apply with respect to the recovery of nonrecurring costs on commercial sales of defense products and technology. Also, see Part 225 for guidance on recovery of nonrecurring research, development, test and evaluation costs when acquisitions are made for foreign military sales customers.

235.004 Publicizing Requirements and Expanding Research and Development Sources.

(a) In addition to the requirements of FAR 35.004(a), where the contracting mission warrants it, purchasing activities will use the SF 129 to establish and maintain Research and Development Bidders Mailing Lists.

(a)(2) Contracting officers, technical personnel, and small business specialists shall cooperatively seek and develop information on the technical competence of small business concerns, Historically Black Colleges and Universities (HBCUs), and Minority Institutions (MIs), as defined at Subpart 226.70, for research and/or development contracts. Small business specialists shall regularly bring to the attention of contracting officers and technical personnel descriptive data, brochures, and other information as to small business concerns, HBCUs, and MIs that are apparently competent to perform research or development work in fields in which the contracting activity is interested. In order to cooperate with the Small Business Administration in carrying out its responsibility of assisting small business concerns to obtain contracts for research and development, contracting officers, technical personnel and small business specialists shall, upon request, provide to authorized SBA representatives information necessary to understand the Government's need concerning research and development programs consideration for specific future acquisition actions. Normally, this information shall be provided, as early as practicable, to SBA representatives assigned

to a contracting activity and shall cover the Government's requirements for each proposed research and development acquisition exceeding $25,000. To the maximum extent feasible, SBA shall be afforded a minimum of 15 working days to provide pertinent information concerning qualified potential small business sources developed through its investigation of the capabilities of specific firms in the particular field of research and development covered by such acquisitions. Full evaluation shall be given to any such information in selecting qualified sources. Sources recommended by SBA for a specific acquisition shall be solicited. Exception to the policy of providing SBA a minimum 15 working day interval to recommend additional qualified small research and development sources for a proposed acquisition will be permitted only in those cases where the head of the contracting activity or the HCA's designated representative advises the SBA representative that such action would result in unjustifiable delay.

(S-70) Solicitation Mailing Lists.

(1) Organizations interested in being solicited for research and development procurements will submit applications on SF 129. Such application may be submitted directly to the Department of Defense agencies, activities and installations engaged in the procurement of research and development in scientific and technological fields in which the applicant possesses demonstrable capabilities or actual technical competence.

(2) Annual Reports or Financial Statements may be submitted with the SF 129. Any additional information, such as organizational brochures, folders, flyers, and pictures, should not be provided unless requested by the Government.

(3) To assure retention on research and development solicitation mailing lists, prospective contractors should update information submitted in accordance with this section at least once a year.

235.006 Contracting Methods and Contract Type.

(S-70) Fixed-Price Type Development Contracts.

(1) A fixed-price type contract (see FAR 16.201) may be awarded for a development program effort only if:

(i) The level of program risk permits realistic pricing;

(ii) The use of a fixed-price type contract permits an equitable and sensible allocation of program risk between the United States and the contractor; and

(iii) Prior to award, the contracting officer determines in writing that the criteria in paragraphs (S-70)(1)(i) and (ii) above have been met and that the fixed-price type contract selected is appropriate (but see paragraph (S-70)(2) below).

(2) A firm fixed-price development contract (see FAR 16.202) over $10,000,000 for development of a major system (as defined in FAR 34.001), or a subsystem thereof, may be awarded only if its use is consistent with the criteria in paragraphs (S-70)(1)(i) and (ii) above and a determination authorizing its use is made by the Under Secretary of Defense for Acquisition (USD(A)) or designee.

235.007 Solicitations.

(a) Through its research and development programs, the Department of Defense must seek the most advanced scientific knowledge attainable and the best possible equipment, weapons, and weapon systems that can be devised and produced. This means two things. First, it means seeking the best scientific and technological sources consistent with the demands of the proposed acquisition for the best mix of cost, performances and schedules. Second, it means continuing efforts to increase the number of qualified sources, and to encourage participation by small business concerns, HBCUs and MIs, as well as others, in Defense research and/or development (see also FAR 9.104).

(a)(5) Other relevant factors include review of information obtained as a result of synopsis of the requirement or other advance publicity (FAR 35.004(a)(1)).

(b) The formal solicitation process is not the only method of entering into contracts for research and/or development. The ongoing research and development work pursued in industrial laboratories is producing ideas and products of interest to the Government; this is especially true in the exploratory and advanced development segment of the research and development spectrum. In the R&D areas where there has been unique and significant industrial accomplishment by a specific concern, the establishment of specifications for solicitation of others may defeat the purpose of taking advantage of this industrial initiative. In such cases, see FAR 35.007(i). In all acquisitions of (1) research and development in which no small business source was solicited, or (2) research or studies, normally acquired from Higher Education Institutions where no HBCU or MI was solicited, a statement shall be included in the solicitation file setting forth the reasons for not soliciting such sources. Where there is no substantial question as to the choice of the source, as set forth in (i), (ii) and (iii) below, solicitations may be limited to a single source in accordance with FAR Part 6:

(i) As a result of thorough evaluation, only one source is found fully qualified to perform the proposed work. (See FAR 6.302-1(b)(1).)

(ii) The purpose of the contract is to explore an unsolicited proposal which offers significant scientific or technological promise, represents the product of original thinking, and was submitted in confidence by one source. (See FAR 6.302-1(b)(3).)

(iii) Where the purpose of the contract is to take advantage of unique and significant industrial accomplishment by a specific concern, or to insure that a new product or idea of a specific concern is given financial support. (See FAR 6.302-1(b)(7) or FAR 6.302-3(b)(2).)

(g) During the preproposal conference the contracting officer may elect to provide prospective offerors with the Government's estimate of the scientific and technical man-effort, or other reasonable indicators, it envisions when it is not possible to describe the magnitude of the proposed work to a sufficiently definitive degree. For example, the estimated effort may be expressed in terms of numbers of man-months or years in particular occupational categories. This technique may be appropriate in cases of contractors for research studies, investigations, or laboratory scale evaluations of feasibility where the Government desires to limit the scope of effort or depth of research.

(S-70) 10 U.S.C. 2352 provides that, subject to availability of funds, contracts for services or for the use of facilities for research or development, or both, may be for a term of not more than five years and may be extended for no more than five years.

235.010 Scientific and Technical Reports.

(a) Scientific and technical reports are documents written for the permanent record to document results obtained from and recommendations made on scientific and technical activities relating to a single project, task or contract, or relating to a small group of closely connected efforts within the Department of Defense Research and Development Program. A completed Report Documentation Page (DD Form 1473) is to be included in each copy of a scientific or technical report required by the contract (see Part 253). Whenever a scientific or technical report is required as a product of the Research, Development Test and Evaluation Effort, the contracting officer will assure that the requirement for a completed DD Form 1473 is clearly stated and that a complete DD Form 1473 is included with each copy of the required scientific and technical reports. Scientific and technical reports should be reproduced as economically as practicable, consistent with the reporting needs of the Government.

(b) Organizations may become eligible for the DTIC service by registering in accordance with Defense Logistics Agency Regulation 4185.10, Certification and Registration for Access to DoD Defense Technical Information, which is available from the Defense Technical Information Center, Cameron Station, Alexandria, Virginia 22314.

235.011 Data.

(a) The data clauses as required by Subpart 227.4 usually provide, among other things, for the reproduction and use for any purpose of the Government of any or all of the information to be

provided under the contract. Contracting officers shall require contractors to furnish all such information resulting from research and development contracts.

235.014 Government Property and Title.

(b) The basic requirements to be observed by the Departments for establishing and maintaining control over Government Property are set forth in Part 245.

(1) In determining whether to grant the approval to the contractor, the contracting officer shall determine that the proposed acquisition is essential to performance of the contract. Approval may be granted either on a line item basis or for clearly defined classes of items.

(c) Headquarters, Air Force Systems Command (AFSC)(PMPR), Andrews Air Force Base, Maryland 20334, is responsible in the Department of Defense for obtaining and maintaining files of Letters of Assurance from nonprofit institutions of higher education and other nonprofit institutions which provide for the agreement specified in FAR 35.014(c). AFSC(PMPR) will distribute, and periodically update, a list of institutions which furnished a Letter of Assurance. Contracting organizations may request a copy of this list; or at any time, inquire as to whether a particular institution has furnished the required Letter of Assurance. If transfer of title to equipment is contemplated and the contactor has not furnished a Letter of Assurance, the contracting office will request, in writing, that AFSC(PMPR) obtain a Letter of Assurance from the contractor. This request must give the complete mailing address of the contractor.

235.015 Contracts For Research With Educational Institutions and Nonprofit Organizations.

(b) Basic Agreements.

(2) The responsibility for negotiating Basic Agreements with appropriate educational institutions and nonprofit organizations for DoD, except designated Federal Contract Research Centers (FCRC), is assigned to the Office of Naval Research, 800 North Quincy Street, Arlington, Virginia 22217. Copies of the agreements will be maintained by the Office of Naval Research and provided to DoD and other purchasing activities upon their request. The Office of Naval Research will periodically provide a listing of current Basic Agreements to the DAR Council for publication in a Defense Acquisition Circular. The need for special clauses should not preclude the purchasing office from utilizing these basic agreements. The Basic Agreement is incorporated by reference in Section I contract clauses, of the contract. Special clause requirements may be incorporated into Section H--Special Provisions, of the contract.

(S-70) Special Use Allowances for Research Facilities Acquired by Educational Institutions.

(1) Definitions.

"Research facility" means real property, other than land, and includes structures, alterations, and improvements, acquired for the purpose of conducting scientific research under contracts with agencies of the Department of Defense; and

"Special use allowance" means a negotiated direct or indirect allowance for buildings, structures, and real property, other than land, computed at an annual rate in excess of the rate which normally would be allowed under FAR Subpart 31.3.

(2) Policy. The expanding requirements of the Department of Defense for the performance of scientific research programs by educational institutions may create special situations wherein the acquisition or construction of additional research facilities by such institutions is essential for the effective performance of scientific research programs of major importance to the Department of Defense. Educational institutions are expected to furnish facilities required for the performance of Defense contracts, and the extent of reimbursement by the Government for the research programs of such institutions shall be governed by the principles set forth in FAR Subpart 31.3. However, in certain limited situations an educational institution may be unable to provide capital for new laboratories or other expanded facilities necessitated by Defense contracts unless the institution is given Governmental assistance in return for the risks and expenses it assumes in acquiring or constructing such facilities. Special use allowances constitute a means for recognizing these risks and expenses on the part of the educational institution and also provide a basis for permitting essential governmental research programs to go forward. The resort to special use allowances as provided by this paragraph is an extraordinary type of arrangement and constitutes an exception to the provisions for normal use allowances. Any specific agreement providing for a special use allowance shall be negotiated on a case-by-case basis using the criteria established herein.

(3) Authorization of Special Use Allowances. The head of a contracting activity may approve special use allowances for the acquisition or construction costs of research facilities financed by educational institutions only when all of the following conditions are met:

(i) the research facility is essential to the performance of Department of Defense contracts;

(ii) the program requirements cannot be met practically and effectively by existing facilities, either Government or non-Government;

(iii) the proposed agreement for the special use allowances represents a sound business arrangement;

(iv) it is undesirable or impractical for the Government to provide Government-owned facilities for the performance of the research; and

(v) the proposed use of the research facility is in consonance with the underlying objective of the Government in granting the special use allowance.

(4) Negotiation and Administration of Contracts Providing for Special Use Allowances. The negotiation and administration of contracts providing for special use allowances are subject to the conditions set forth in (i) through (xiii) below:

(i) The terms of the agreement for special use allowances authorized herein shall be specified or incorporated by reference in the applicable contracts.

(ii) When the special use allowance is based on the total acquisition cost, no normal use allowance or other use or depreciation charge will apply during the special allowance period nor after the educational institution has recovered the total acquisition cost under Government contracts or from other users. When the special use allowance is based on less than total acquisition cost of the research facility, the agreement will specify whether any normal use allowance or other use or depreciation charge will apply to the balance during the special use allowance period; however, no more than the normal use allowance computed in accordance with FAR Subpart 31.3 may be applied thereafter to the balance.

(iii) During the period of the special use allowance, and for subsequent periods to the extent agreed upon, the research facility shall be available for Government research use on a priority basis over non-Government use. Any significant use during such period other than that which justified the special use allowance shall be subject to prior consent of the cognizant approval authority specified in (3) above.

(iv) Special use allowances are applicable only in years in which the Government has contracts in effect with the educational institution for research to be conducted in the facility. The Government has no liability to the educational institution for the special use allowance in any year in which there is no Government contract. In any year when the level of research effort under Government contracts has been reduced to a point where the special use allowance is excessive in relation to the extent of the Government research funding, the parties may negotiate a special use allowance for that year at a mutually acceptable rate.

(v) When more than one Government contract is to be performed in the research facility, special use allowances generally should be allocated to using contracts on an equitable basis.

(vi) If during the period when a special use allowance is in effect, any substantial use is made of the research facility for parties other than the Government, only an allocable share of the special use allowance shall be charged to the Government.

(vii) Special use allowances shall not include any maintenance, utilities, or other operational costs.

(viii) Generally, the period for which a special use allowance is authorized shall be at least ten years. However, a shorter period of time is authorized where the total amount to be allowed is less than acquisition cost for the research facility.

(ix) Reimbursements under contracts for special use allowances shall not commence until the research facility is occupied and used for research under the contract. However, equitable adjustments may be made in the special use allowance during the construction period if the research facility is partially used for research under the contract.

(x) Determination of the amount of a special use allowance shall be based on the comparative need for the research facility by the Department of Defense and by the educational institution. In no event shall the institution be paid more than the acquisition costs.

(xi) In establishing the annual special use allowance, due consideration shall be given to rental costs for similar space in the area where the research facility is to be located.

(xii) No payment shall be made to the educational institution for costs of land or interest charges on capital, used or borrowed, for the acquisition of the research facility.

(xiii) Information copies of each special use allowance agreement negotiated shall be furnished to each authorizing official specified in (3) and to the Deputy Under Secretary (Research and Advanced Technology), Office of the Under Secretary of Defense for Research and Engineering.

235.016 Broad Agency Announcements.

(a)(S-70) Partial Set-Asides for HBCUs and MIs Under Broad Agency Announcements. To facilitate achievement of the goals established by Section 1207 of Pub. L. 99-661 and Section 806 of Pub. L. 100-180 (see 226.7003), whenever practicable, contracting officers shall reserve discrete or severable areas of research interest contained in Broad Agency Announcements for exclusive competition among HBCU and MI entities, and so indicate in the announcement synopsis (see 205.207(d)(S-76)) and within the BAA. Decisions not to reserve such requirements for HBCUs and MIs shall be documented in the contract file (see 235.007(b)(1)).

235.070 Indemnification Against Unusually Hazardous Risks.

(a) Indemnification Under Research and Development Contracts.

(1) Use of Clause. Pursuant to the authority of 10 U.S.C. 2354 and when authorized by the Secretary concerned (or designee under 10 U.S.C. 2356), a contract for research and development, or both, may provide for indemnification of the contractor and subcontractors against:

(i) claims by third persons (including employees) for death, bodily injury, or loss of or damage to property; and

(ii) loss of or damage to the contractor's property, to the extent that such liability, loss or damage--

(A) results from a risk that the contract defines as "unusually hazardous",

(B) arises out of the direct performance of the contract, and

(C) is not compensated by insurance or otherwise.

When authorization has been obtained, the appropriate clause prescribed in 235.071(a) or (b) shall be used.

(2) Each contract containing a clause authorized by (a) above shall clearly define the specific unusually hazardous risks to which the clause applies. This definition shall be submitted for approval with the request for authorization to grant indemnification. The definition may be included as an additional paragraph of the clause or inserted elsewhere in the contract. The fact that one or more risks under a contract may appropriately defined as unusually hazardous does not justify so defining other risks of contract performance which are not in themselves unusually hazardous; neither does it preclude indemnification of such other risks under other appropriate authority.

(b) Indemnification Under Contracts Involving Both Research and Development and Work That Cannot Be So Classified. Certain contracts require a substantial amount of research and development work as well as a substantial amount of work that cannot be so classified. When indemnification is to be provided for such contracts, an appropriate clause, utilizing the authority of both 10 U.S.C. 2354 and Public Law 85-804 may be used. In such cases, the use of Public Law 85-804 to provide indemnification is limited to work which cannot be indemnified pursuant to 10 U.S.C. 2354 and is subject to compliance with the provisions of FAR Subpart 50.4.

235.071 Contract Clauses.

(a) The contracting officer shall insert the clause at 252.235-7000, Indemnification Under 10 U.S.C. 2354--Fixed Price, as provided for in 235.070.

(b) The contracting officer shall insert the clause at 252.235-7001, Indemnification Under 10 U.S.C. 2354--Cost-Reimbursement, as provided for in 235.070.

(c) The contracting officer shall insert the clause at 252.271-7001, Recovery of Nonrecurring Costs on Commercial Sales of Defense Products and Technology and of Royalty Fees for Use of DoD Technical Data, as provided for in 271.004(a).

(d) The contracting officer shall insert the clause at 252.235-7003, Care of Laboratory Animals, in all contracts in compliance with law and in furtherance of the Department of Defense policy that all aspects of investigative programs involving the use of experimental or laboratory animals be humanely conducted in accordance with recognized principles. The clause shall be included in all contracts awarded in the United States, its possessions, and Puerto Rico which may involve the use of such animals.

(e) The contracting officer shall insert the clause at 252.235-7004, Frequency Authorization, in any contract which calls for developing, producing, constructing, testing, or operating a device for which a radio frequency authorization is required.

PART 242--CONTRACT ADMINISTRATION
SUBPART 242.3--CONTRACT ADMINISTRATION OFFICE FUNCTIONS

242.302 Contract Administration Functions.

(a)(11)(ii) & (iii) For those contractors with which the Tri-Service Contracting Officer negotiates advance agreements pursuant to FAR 42.10, he shall have full authority for determinations related to CAS 420.

(a)(39) For contracts containing ammunition and explosive requirements, see 223.70.

(S-70) Perform industrial readiness and mobilization production planning field surveys and schedule negotiations.

(S-71) Perform post award surveillance of contractor progress toward demonstration of Cost/Schedule Control Systems to meet the Cost/Schedule Control Systems Criteria, provide assistance in the review and acceptance of contractors' Cost/Schedule Control Systems, and perform post acceptance surveillance to ensure continuing operation of contractors' accepted systems. (See 234.005-70.)

(S-72) Monitor the contractor's costs as prescribed under Subpart 242.70.

(S-73) In connection with the provisions of paragraph (b) of the clause at FAR 52.225-10, Duty-Free Entry, and paragraph (c) of the clause at 252.225-7008, Duty-Free Entry--Qualifying Country End Products and Supplies, negotiate and issue appropriate contract modifications reducing contract prices.

(S-74) Reserved.

(S-75) Review contracting estimating systems.

(S-76) Evaluate contractor material management and accounting systems as prescribed in Subpart 242.72.

PART 242--CONTRACT ADMINISTRATION
SUBPART 242.72--CONTRACTOR MATERIAL MANAGEMENT AND ACCOUNTING SYSTEMS

242.7201 Scope of Subpart.

This subpart prescribes policies, procedures, and standards for use in the evaluation of a contractor's material management and accounting system (MMAS). It further prescribes the responsibilities of the contractor, the auditor, and the contracting officer regarding the assessment, demonstration, evaluation, and correction of deficiencies in a contractor's MMAS.

242.7202 Definitions.

"Contractor", for purposes of this subpart, means a business unit as defined in FAR 31.001.

"Material Management and Accounting System" (MMAS), as used in this subpart, means the contractor's system(s) for planning, controlling, and accounting for the acquisition, use, and disposition of material. MMAS's may be manual or automated and they may be integrated with planning, engineering, estimating, purchasing, inventory, and/or accounting systems, etc., or they may be essentially stand-alone systems.

"Valid Time-Phased Requirements" means material which is (a) needed to fulfill the production plan, including reasonable quantities for scrap, shrinkage, yield, etc., and (b) is charged/billed to contracts or other cost objectives in a manner consistent with their need to fulfill the production plan.

242.7203 Policy.

It is the policy of the Department of Defense that all contractors have a MMAS that reasonably forecasts material requirements, assures the costs of purchased and fabricated material charged or allocated to a contract are based on valid time-phased requirements, and maintains a consistent, equitable, and unbiased logic for costing of material transactions. To assist contractors to comply with this policy, standards for MMAS's are prescribed at 242.7206. The Government has no preference among the various automated or manual systems, or among various methods of material transfer/allocation, as long as the contractor's MMAS complies with the standards at 242.7206.

242.7204 Applicability.

(a) All contractors who receive prime contracts, other than contracts awarded under the set-aside procedures of FAR Part 19, greater than the small purchase threshold set forth in FAR 13.000 and which are either (1) cost-reimbursement contracts, or (2) fixed-price contracts with progress or other financing payments, are expected to have a MMAS which conforms to the standards at 242.7206.

(b) The specific requirements of sections 242.7207 and 242.7208 apply to any large business contractor which in its preceding fiscal year received DoD prime contracts or subcontracts totaling $50 million or more.

(c) For a large business contractor not meeting the criteria in paragraph (b) of this section but which in its preceding fiscal year received DoD prime contracts or subcontracts totaling $10 million or more, the PCO may require compliance with paragraphs (d) and (e) of the clause at 252.245-7001 with the concurrence, or at the request, of the ACO when such compliance is in the best interest of the Government (e.g., significant material management and accounting system deficiencies are believed to exist).

(d) The demonstration and evaluation requirements of sections 242.7207 and 242.7208 do not apply to small businesses, educational institutions, or nonprofit organizations.

242.7205 Responsibilities.

(a) Contracting officers should note that the standards at 242.7206 and the enforcement requirements at 242.7208 are broadly worded and require the exercise of sound judgment to achieve effective implementation. Furthermore, this subpart requires careful coordination, communication, and understanding among the DCAA auditor, the contractor, and the ACO staff.

(b) Contractors shall assess their MMAS's and take reasonable action to comply with the standards at 242.7206.

(c) Contractors meeting the requirements in 242.7204(b) or (c) shall, in accordance with 242.7207, disclose their MMAS to the cognizant ACO and shall, upon the request of the ACO, demonstrate the degree to which their MMAS complies with the standards at 242.7206.

(d) The ACO will neither approve nor disapprove a contractor's MMAS, but only determine whether it adequately conforms to the standards set forth in 242.7206. However, the approval requirements of FAR 32.503-15(d) and 52.245-5(d) are met when the ACO has determined that the MMAS conforms to the standard at 242.7206(b)(7). ACO blanket approval of cost transfers between contracts should be contingent upon the contractor retaining records of the transfer activity that took place in the prior month and reporting, at least monthly, a summary of the transfer activity that took place in the prior month. The summary report should include as a minimum, the total number of transfers and their dollar value.

(e) For a contractor meeting the requirements in 242.7204(b) or (c) above, the cognizant ACO shall determine the adequacy of the contractor's MMAS and pursue appropriate corrections of deficiencies.

(f) On behalf of the ACO, the cognizant auditor will advise and assist the ACO in evaluating both the contractor's MMAS and the

contractor's correction of any deficiencies thereto. Auditors shall assess the significance of contractor deficiencies and provide the ACO an estimate of the adverse material impact to the Government resulting from such deficiencies.

242.7206 Material Management and Accounting System Standards.

MMAS's must (a) have adequate internal accounting and administrative controls to assure system and data integrity; and (b) comply with the following:

(1) Have an adequate system description including policies, procedures, and operating instructions compliant with the FAR and DFARS.

(2) Assure that costs of purchased and fabricated material charged or allocated to a contract are based on valid time-phased requirements as impacted by minimum/economic order quantity restrictions. A 98 percent bill of material accuracy and a 95 percent master production schedule accuracy are desirable as a goal in order to assure that requirements are both valid and appropriately time-phased. If systems have accuracy levels below those above, the contractor must demonstrate that (i) there is no material harm to the Government due to lower accuracy levels, and/or (ii) the cost to meet the accuracy goals is excessive in relation to the impact on the Government.

(3) Provide a mechanism to identify, report, and resolve system control weaknesses and manual overrides. Systems should identify operational exceptions such as excess/residual inventory as soon as known.

(4) Provide audit trails and maintain records necessary to evaluate system logic and to verify through transaction testing that the system is operating as desired. Both manual records and those in machine readable form will be maintained for the prescribed record retention periods.

(5) Establish and maintain adequate levels of record accuracy, and include reconciliation of recorded inventory quantities to physical inventory by part number on a periodic basis. A 95 percent accuracy level is desirable. If systems have an accuracy level below 95 percent, the contractor must demonstrate that (i) there is no material harm to the Government due to lower accuracy level, and/or (ii) the cost to meet the accuracy goal is excessive in relation to the impact on the Government.

(6) Provide detailed description(s) of circumstances which will result in manual or system generated transfers of parts.

(7) Maintain a consistent, equitable, and unbiased logic for costing of material transactions. The contractor will maintain and disclose a written policy describing the transfer methodologies. The costing methodology may be standard or actual cost, or any of the

inventory costing methods in FAR 30.411-50(b). Consistency must be maintained across all contract and customer types, and from accounting period to accounting period for initial charging and transfer charging.

(i) The system should transfer parts and associated costs within the same billing period.

(ii) In the few circumstances where it may not be appropriate to transfer parts and associated costs within the same billing period, use of a "loan/payback" technique must be approved by the ACO. When the technique is used, there must be controls to ensure that parts are paid back expeditiously; procedures and controls are in place to correct any overbilling that might occur; at a minimum, the borrowing contract and the date the part was borrowed are identified monthly; and the cost of the replacement part is charged to the borrowing contract.

(8) Where allocations from common inventory accounts are used, have controls in addition to the requirements of standards in paragraphs (b)(2) and (7) above to ensure that:

(i) Reallocations and any credit due are processed no less frequently than the routine billing cycle;

(ii) Inventories retained for requirements which are not under contract are not allocated to contracts;

(iii) Algorithms are maintained based on valid and current data.

(9) Notwithstanding FAR 45.505-3(f)(2)(ii), have adequate controls to ensure that physically commingled inventories that may include material for which costs are charged or allocated to fixed-price, cost-reimbursement, and commercial contracts do not compromise requirements of any of the above standards.

(10) Be subjected to periouic internal audits to ensure compliance with established policies and procedures.

242.7207 System Disclosure, Demonstration, and Maintenance Requirements.

(a) A MMAS disclosure is adequate when the contractor has provided the cognizant ACO documentation which accurately describes those policies, procedures, and practices that the contractor currently uses in its MMAS in sufficient detail for the Government to reasonably make an informed judgment regarding the adequacy of the contractor's MMAS.

(b) A MMAS demonstration is adequate when the contractor has provided the cognizant ACO sufficient evidence to demonstrate the degree of conformance of its MMAS to the standards at 242.7206, including an estimate of the cost impact to the Government of any significant deficiencies and a comprehensive plan for correcting any significant deficiencies.

(c) Significant changes to the MMAS must be disclosed to the cognizant ACO within 30 days of their implementation.

(d) If the contractor notifies the Government representative to whom the information is submitted, i.e., the ACO or the auditor, that disclosed information relative to its MMAS contains commercial or financial information which it regards as privileged and confidential, such information shall be protected and shall not be released outside the Government without the permission of the contractor. The contractor should ensure an appropriate legend is on the face of the disclosed document at the time of submission.

242.7208 Procedures.

(a) System Evaluation. Cognizant audit and contract administration activities will jointly establish and manage programs for evaluating the MMAS's of contractors meeting the requirements of 242.7204(b) or (c). Evaluations will be based on the disclosure/demonstrations provided by the contractors. Evaluations and reports shall be accomplished as a contract audit and contract administration office team effort. The ACO shall appoint a team leader and ensure representation of appropriate functional specialties. Evaluations shall be tailored to take full advantage of the day-to-day work done as an integral part of both the contract audit and contract administration activities. A system evaluation shall be conducted at least every three years, except where the ACO, in consultation with the auditor, determines that past experience and a current vulnerability assessment of the contractor discloses low risk. If the ACO determines that the Government is subject to high risk, MMAS evaluations should be done more frequently. To the extent possible, the evaluation team leader should inform the contractor and the ACO of significant findings during the conduct of the evaluation. The team leader should apprise the contractor during an exit conference of any significant findings.

(b) Disposition of Evaluation Team Findings.

(1) Reporting of Evaluation Team Findings. The report shall address the evaluation team findings and recommendations. If there are significant MMAS deficiencies, the report shall provide an estimate of the adverse material impact to the Government resulting from those deficiencies and a recommendation as to the acceptability of the contractor's corrective action plan.

(2) Field Pricing Reports. When the report of an evaluation indicates that there is a significant MMAS deficiency, all field pricing reports for that contractor will contain a recommendation relating to proposed cost and pricing data adjustments necessary to protect the interest of the Government, until the deficiency(s) is corrected.

(3) Initial Notification of Contractor. Upon receipt of the system evaluation report, the ACO shall provide a copy to the contractor and allow 30 days, or a reasonable extension thereto, for submission of its written response. If no significant deficiencies are identified, the ACO will notifiy the contractor in a timely manner.

(i) Contractor Agreement. If the contractor agrees with the report findings and recommendations, the contractor should proceed with the execution of the corrective action plan.

(ii) Contractor Disagreement. If the contractor disagrees with the report findings and recommendations, the contractor's response should contain the rationale for each area of disagreement.

(4) Evaluation of Contractor's Response. The ACO, in consultation with the auditor, will evaluate the contractor's written response and determine whether--

(i) The MMAS contains deficiencies which need correction;

(ii) Any deficiencies are significant enough to result in the reduction or suspension of progress payments or of payments under public vouchers; and

(iii) Proposed corrective actions are adequate to correct the deficiencies.

(5) Contracting Officer Responsibility.

(i) When the ACO determines that there is a significant MMAS deficiency, the ACO shall suspend, in accordance with FAR 32.503-6, an appropriate percentage of affected costs on progress payment claims and public vouchers proportionate to the adverse material impact to the Government until a corrective action plan is submitted and accepted. The percentage of the suspension will be impacted by the quality of the contractor's self-assessment, demonstration, and corrective action plan. After acceptance of the corrective action plan, but prior to complete implementation, the ACO will reduce the suspension as appropriate to reflect the contractor's progress. In no case, however, will total amounts of affected costs be approved for progress payments or public vouchers until the contractor's system is determined to be acceptable for Government contract costing purposes, or the amount of the impact is determined to be immaterial.

(ii) When the report of an evaluation indicates that there is a significant MMAS deficiency, the ACO should ensure that the effect of the deficiency(s) is considered in the review of the contractor's estimating system pursuant to DFARS 215.811.

(6) Notification of ACO Determination. The ACO will notify the contractor and the auditor of the determination and any decision to reduce or suspend progress payments or payments under public vouchers. The notice shall identify the deficiencies requiring correction and will indicate acceptance or rejection of the contractor's corrective action plan.

(7) Monitoring Contractor's Corrective Action. The auditor and ACO will monitor the contractor's progress toward correction of deficiencies. In the event the contractor fails to make adequate progress toward corrective action, the ACO shall take further appropriate action to ensure that the contractor corrects the deficiency. Actions which should be considered by the ACO include, but are not limited to, bringing the issue to the attention of higher level management, further reduction or suspension of progress payments in accordance with FAR 32.503-6, disapproval of the contractor's cost accounting system and/or cost estimating system, and/or recommendations concerning award of future contracts.

242.7209 Contract Clause. The contracting officer shall insert the clause at 252.242-7001 in all solicitations and resulting contracts which are greater than the small purchase threshold set forth in FAR 13.101 and are either (a) cost-reimbursement contracts or (b) are fixed-price contracts with progress or other financing payments. However, the clause shall not be included in that portion of solicitations and contracts which are set aside for exclusive participation by small business and small disadvantaged business concerns.

PART 245--GOVERNMENT PROPERTY
SUBPART 245.5--MANAGEMENT OF GOVERNMENT PROPERTY IN THE POSSESSION OF CONTRACTORS

245.505-3 Records of Material.

(f)(2)(ii) For DoD contracts, the contractor's material control system may physically commingle inventories that may include materials for which costs are charged or allocated to fixed-price, cost-reimbursement, and commercial contracts so long as the contractor has adequate controls to ensure that the requirements of 242.7206 are met.

245.505-5 Records of Plant Equipment.

(a) DD Form 1342 may be used as a source document for setting up prescribed records.

245.505-6 Special Reports of Plant Equipment. The contractor shall prepare a DD Form 1342 for each item of equipment identified as Industrial Plant Equipment (IPE), including items which, though part of a manufacturing system, would otherwise qualify as industrial plant equipment. Section VI (page 2) of the DD Form 1342 will be prepared for each item of IPE with numerically controlled features. General purpose components of special test equipment, which would otherwise qualify as IPE, should not be reported until there is no longer a requirement for the test equipment. The DD Form 1342, including Section VI, as appropriate, will be prepared in accordance with instructions contained in AR 700-43/NAVSUP PUB 5009/AFM 78-9/DLAM 4215.1, Management of Defense-Owned Industrial Plant Equipment (IPE), at the time (a) of receipt and acceptance of accountability by the contractor; (b) major changes as specified by DLAM 4215.1 occur in the data initially submitted to DIPEC: (c) IPE is no longer required for the purpose authorized or provided; or (d) disposal is completed. The DD Form 1342 prepared at the time IPE is no longer required for the purpose authorized or provided shall reflect all changes in data not previously reported to DIPEC. The contractor shall retain the original of each DD Form 1342 which may be used as the official property record. Copies of the DD Form 1342, including Section VI, as appropriate, shall be forwarded directly to DIPEC through the property administrator. Each DD Form 1342 will be prepared and forwarded within 15 working days after the events which created the need for its preparation and forwarding. AR 700-43/NAVSUP PUB 5009/AFM 78-9/DLAM 4215.1 is available from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402 (see 245.301).

245.505-14 Reports of Government Property.

(a) The contractor's property control system shall provide annually a report, by contract, of all DoD property for which the contractor is accountable, categorized as follows:

(1) Acquisition cost of:

(i) Land and rights therein;

(ii) OPE (see 245.301);

(iii) IPE (see 245.301);

(iv) Special test equipment to which the Government has title (see FAR 45.101);

(v) Special tooling to which the Government has title (see FAR 45.101);

(vi) Agency-peculiar (military) property including reparables and other end items or components for which the Government continues to maintain an asset record while it is with the contractor (see FAR 45.301 and 245.301);

(vii) Government material, including Government-furnished and contractor-acquired (see FAR 45.301 and FAR 45.101).

(2) Quantity of:

(i) Land (in acres);

(ii) OPE;

(iii) IPE;

(iv) Special test equipment;

(v) Special tooling;

(vi) Agency-peculiar (military) property.

(3) Additions to and deletions from the contract, in dollars, of:

(i) Land and rights therein;

(ii) Other real property;

(iii) OPE;

(iv) IPE;

(v) Special test equipment;

(vi) Special tooling.

(b) The above report shall be as of September 30 each year. Those property-bearing contracts which are closed with zero property balances prior to September 30 shall be reported at the time the property balances become zero. The prime contractor shall flow this reporting requirement to include DoD property in the possession of subcontractors. The prime contractor is responsible for reporting to DoD all property accountable to the contract, including that at subcontractor and alternate locations. The contractor shall prepare the report on DD Form 1662 (October 1986 or later version), DoD Property in the Custody of Contractors, or an approved substitute, and shall furnish it, in duplicate, to the property administrator no later than October 31 of each year. Office of Management and Budget No. 0704-0246 has been assigned to the report.

orders issued in performance or any contract resulting from this solicitation unless the Contractor knows that the item being purchased contains no precious metals.

(End of provision)

252.208-7005 **Required Sources for Forging and Welded Shipboard Anchor Chain Items Used for Military Application for Combat and Direct Combat Support Items.** As prescribed at 208.7803, insert the following clause:

REQUIRED SOURCES FOR FORGING AND WELDED SHIPBOARD ANCHOR CHAIN ITEMS (AUG 1985)

(a) For the purpose of this clause:

"Domestic manufacture" means forging and welded shipboard anchor chain (smaller than four inches in diameter) items manufactured in the United States or Canada.

"End item" means a final combination of end products, component parts, and/or materials which is ready for its intended use, per JCS Publication #1 (DoD Dictionary of Military and Associated Terms).

(b) The Contractor agrees that end items, components, and processed materials thereof delivered under this contract shall contain domestic forging and welded shipboard anchor chain (smaller than four inches in diameter) items of United States and Canadian manufacturers only as listed in Section 208.7802-1 of the DoD FAR Supplement. This restriction does not include forgings for commercial vehicles (such as commercial cars and trucks) or to noncombat support military vehicles.

(c) A Canadian firm may bid on and supply any of the restricted items if: (1) it normally produces similar items or it is currently producing the item in support of DoD contracts (as prime or subcontractor); and (2) it agrees to become (upon receiving a contract/order) a planned producer under DoD's Industrial Preparedness Program (IPP), if it is not already a planned producer for the item.

(d) The Contractor agrees to insert this clause, including this paragraph (d), in every subcontract and purchase order issued in performance of this contract, unless he knows that the item being purchased contains none of the restricted forging or welded shipboard anchor chain items.

(e) The Contractor agrees to retain until the expiration of three (3) years from the date of final payment under this contract and to make available during such period, upon request of the Contracting Officer, records showing compliance with this clause.

(f) The requirement for delivery in (b) above may be waived in whole or in part on a case-by-case basis by the Contracting Officer when such a waiver is determined to be in the Government's interest and it meets the provisions of Subpart 208.78 of the DoD FAR Supplement.

(End of clause)

252.208-7006 Required Sources for Antifriction Bearings. As prescribed in 208.7905, insert the following provision in solicitations and contracts:

REQUIRED SOURCES FOR ANTIFRICTION BEARINGS (APR 1989)

(a) For the purpose of this clause:

"Bearing components" means the bearing element, retainer, inner race, or outer race.

"Bearings" means antifriction bearings.

"Commercial product" means a product, such as an item, material, component, subsystem, or system sold or traded to the general public in the course of normal business operations at prices based on established catalog or market prices (see FAR 15.804-3(c) for an explanation of terms). It does not include items designed or developed under a Government contract or bearings and bearing components.

"Custom/Specialty Bearings" means those bearings having tolerances equivalent to super-precision bearings or greater, and those bearings which contain components or have assembly characteristics that meet or exceed ABEC/RBEC 5.

"Domestic manufacture" means wholly manufactured in the United States or Canada. When a bearing assembly is involved, all components of the assembly must be wholly manufactured in the United States or Canada. Unless otherwise specified, raw materials, such as preformed bar, tube or rod stock and lubricants, need not be domestically mined or produced.

"Miniature and instrument ball bearings" means rolling element ball bearings having a basic outside diameter (exclusive of flange diameters) of 30 millimeters or less, irrespective of material, tolerance, performance, or quality characteristics (see DFARS Subpart 208.73).

"Super-precision Bearings" means bearings having a precision classification of ABEC/RBEC 5 or higher.

(b) Bearings, components, bearing or bearings installed in defense end-items, subassemblies or components, supplied under this contract, shall be of domestic manufacture.

(c) The Contractor shall certify to the Contracting officer in writing upon delivery of the bearings, bearing components, or defense end-items or subassemblies containing bearings, that to the best of its knowledge and belief, such bearings or bearing components are of domestic manufacture.

(d) The Government may waive the requirements in paragraphs (b) and (c) above, in whole or in part. However, before a waiver may be considered for a multiyear contract or one that may exceed twelve (12) months, the Contractor shall submit a written plan for the transition from bearings that are not domestically manufactured to bearings of

domestic manufacture. The plan shall identify all bearings currently in use that are not of domestic manufacture, their application and source of manufacture, a plan for the transition to domestically manufactured bearings, the costs associated with the transition, and a timetable for transition. If acceptable to the Government, the plan will be incorporated into the contract.

(e) Paragraphs (b), (c) and (d) do not apply to--

(1) End items, subassemblies and components that are commercial products;

(2) Miniature and instrument bearings which are restricted by DFARS Subpart 208.73; and

(3) Bearings covered by the following Military Specifications, for contracts entered into prior to December 31, 1989:

Mil B 6039	Bearing, double row, ball, sealed rod end, antifriction, self-aligning
Mil B 7949	Bearing, ball, airframe, antifriction
Mil B 8952	Bearing, roller, rod end, antifriction self-aligning

(f) The Contractor agrees that the terms of this clause, appropriately modified to reflect the identity of the parties, including this paragraph, will be inserted in every subcontract and purchase order issued in performance of this contract, unless any of the exceptions listed in DFARS 208.7905(b) exist.

(End of clause)

252.242-7000 Submission of Commercial Freight Bills to the General Services Administration for Audit. As prescribed at 242.1403-2, insert the following clause:

SUBMISSION OF COMMERCIAL FREIGHT BILLS TO THE GENERAL SERVICES ADMINISTRATION FOR AUDIT (AUG 1985)

When transportation costs are reimbursed to the Contractor, the Contractor is required to furnish to the General Services Administration, at the address below (or to the ACO if specified), individual commercial freight bills (or equivalent shipment data and evidence of payment) for transportation charges in excess of five hundred dollars ($500.00).

General Services Administration - BWAA
GSA Building
18th & F Streets, N.W.
Washington, D.C. 20405

(End of clause)

252.242-7001 Material Management and Accounting System Requirements and Standards. As prescribed in 242.7209, insert the following clause.

MATERIAL MANAGEMENT AND ACCOUNTING SYSTEM REQUIREMENTS AND STANDARDS (MAY 1989)

(a) Definitions.

"Contractor", for purposes of this clause, means a business unit as defined in FAR 31.001, i.e., any segment of an organization, or an entire business organization which is not divided into segments.

"Material Management and Accounting System" (MMAS), as used in this clause, means the contractor's system(s) for planning, controlling, and accounting for the acquisition, use, and disposition of material. MMAS's may be manual or automated and they may be integrated with planning, engineering, estimating, purchasing, inventory, and/or accounting systems, etc., or they may be essentially stand-alone systems.

"Valid Time-Phased Requirements" means material which is (1) needed to fulfill the production plan, including reasonable quantities for scrap, shrinkage, yield, etc., and (2) is charged/billed to contracts or other cost objectives in a manner consistent with their need to fulfill the production plan.

(b) General. The Contractor agrees to maintain a material management and accounting system (MMAS) that reasonably forecasts material requirements, assures that costs of purchased and fabricated material charged or allocated to a contract are based on valid time-phased requirements, and maintains a consistent, equitable, and unbiased logic for costing of material transactions.

(c) Applicability. The Contractor will assess its MMAS and take reasonable action to comply with the standards set forth in section 242.7206 of the DoD FAR Supplement. Paragraphs (d) and (e) below are also applicable if the Contractor is a large business and, in its fiscal year preceding award of this contract, received Department of Defense (DoD) prime contracts or subcontracts totaling fifty million dollars ($50 million) or more. Paragraphs (d) and (e) below are also applicable if the Contractor is a large business which, in its fiscal year preceding award of this contract, received DoD prime contracts or subcontracts totaling ten million dollars ($10 million) or more and, during performance of this contract, the Contracting Officer notifies the Contractor in writing that paragraphs (d) and (e) of this clause apply.

(d) System Disclosure, Demonstration, and Maintenance Requirements.

(1) The Contractor shall disclose its MMAS to the cognizant ACO and shall, upon the request of the ACO, demonstrate the degree to which its MMAS conforms to the standards set forth in section 242.7206 of the DoD FAR Supplement. If the Contractor desires the Government to protect such information as privileged or confidential, the Contractor shall notify the Government representative to whom the information is submitted, i.e., the ACO, or the auditor, and the Contractor shall ensure an appropriate legend is on the face of the document(s) at the time of submission.

(i) A MMAS disclosure is adequate when the Contractor has provided the cognizant ACO documentation which accurately describes those policies, procedures, and practices that the Contractor currently uses in its MMAS in sufficient detail for the Government to reasonably make an informed judgment regarding the adequacy of the Contractor's MMAS.

(ii) A MMAS demonstration is adequate when the Contractor has provided the cognizant ACO sufficient evidence to demonstrate the degree of compliance of its MMAS with the standards at 242.7206 of the DoD FAR Supplement, including an estimate of the cost impact to the Government of any significant deficiencies and a comprehensive plan for correcting any significant deficiencies.

(2) Significant changes to the MMAS must be disclosed to the ACO within 30 days of their implementation.

(e) MMAS Deficiencies.

(1) If during the period of performance of this contract, the Contractor receives a report of the evaluation of its MMAS, the Contractor agrees to respond as follows:

(i) If the Contractor agrees with the report findings and recommendations, the Contractor shall, within thirty (30) days of receipt of such report, indicate its agreement in writing and shall proceed to execute the corrective action plan, if any, agreed-to by the ACO.

(ii) If the Contractor disagrees with the report findings and recommendations, the Contractor shall respond in writing within thirty (30) days of receipt of the report, indicating its rationale for each area of disagreement.

(2) The ACO shall evaluate the Contractor's response to the report and notify the Contractor of his/her determination concerning any remaining deficiencies and/or the adequacy of any proposed or completed corrective action(s).

(End of clause)

252.242-7002 Reserved.

252.242-7003 Certification of Indirect Costs. As prescribed in 242.770-1, insert the following clause:

CERTIFICATION OF INDIRECT COSTS (APR 1986)

(a) The Contractor shall certify any proposal to establish or modify billing rates or to establish final indirect cost rates in the form set forth in paragraph (b) of this clause. The certificate shall be signed on behalf of the Contractor by an individual of the Contractor's organization at a level no lower than a vice president or chief financial officer of the business segment of the Contractor that submits the proposal. The Contractor understands that if the Contractor fails to submit a certificate as required herein, payments on account of indirect cost shall be at rates unilaterally established by the Government.

(b) Certificate of Indirect Costs. The certificate of indirect costs shall read as follows:

CERTIFICATE OF INDIRECT COSTS

This is to certify that to the best of my knowledge and belief:

1. I have reviewed the indirect cost proposal submitted herewith;

2. All costs included in this proposal _____(identify, date)_____ to establish billing or final indirect cost rates for ___(identify period covered by rate)_____ are allowable in accordance with the requirements of contracts to which they apply and with the cost principles of the Department of Defense applicable to those contracts;

3. This proposal does not include any costs which are unallowable under applicable cost principles of the Department of Defense, such as (without limitation): advertising and public relations costs, contributions and donations, entertainment costs, fines and penalties, lobbying costs, defense of fraud proceedings, and good will; and

4. All costs included in this proposal are properly allocable to Defense contracts on the basis of a beneficial or causal relationship between the expenses incurred and the contracts to which they are allocated in accordance with applicable acquisition regulations.

I declare under penalty of perjury that the foregoing is true and correct.

Firm: _____

Signature: _____

Name of Corporate Official: _____

Title: _____

Date of Execution: _____

(End of clause)

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DD Form 1659: Application for U.S. Government Shipping Documentation/Instructions

APPLICATION FOR U.S. GOVERNMENT SHIPPING DOCUMENTATION / INSTRUCTIONS *(See instructions on reverse before completion)*	TYPE OF APPLICATION *(X one)*: GOVERNMENT BILL(S) OF LADING; DOMESTIC ROUTE ORDER; EXPORT OR FMS SHIPMENT	*Form Approved OMB No. 0704-0250 Expires Jan 31, 1992*

Public reporting burden for this collection of information is estimated to average 15 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to Washington Headquarters Services, Directorate for Information Operations and Reports, 1215 Jefferson Davis Highway, Suite 1204, Arlington, VA 22202-4302, and to the Office of Management and Budget, Paperwork Reduction Project (0704-0250), Washington, DC 20503.

1. TO *(Name and Address of Transportation Officer providing shipping instructions) (Include Zip Code)*	2. AGENCY ID NO. 3. CONTRACTOR'S APPLICATION NO.	4. FROM *(Name and Address of Contractor) (Include Zip Code)*
5. DESTINATION *(Name and Address) (Include Zip Code)*	6. SPLC *(Destination)* 7. SPLC *(Origin)*	8. ORIGIN *(Name and Address) (Include Zip Code)*
9. CONSIGNEE *(Name and Address) (Include Zip Code)*	10. DODAAC 11. CAGE CODE	12. SHIPPER *(Name and Address) (Include Zip Code)*

13. MARKS AND ANNOTATIONS	14. DATE SHIPMENT AVAILABLE *(YYMMDD)*	15. REQ. DATE AT DESTINATION *(YYMMDD)*	16. TP

17. IF CARLOAD OR TRUCKLOAD, INDICATE TYPE AND SIZE REQUIRED FOR EACH	18. SPECIAL ROUTING CONDITIONS

19. RAIL CARRIER SERVING		c. PRIVATE SIDING *(X if applicable or indicate nearest point of delivery)*	
a. CONSIGNOR	SCAC		SPLC
b. CONSIGNEE	SCAC		SPLC

20. HAZARDOUS MATERIALS *(X and complete as applicable)*

	a. THIS SHIPMENT DOES NOT CONTAIN HAZARDOUS MATERIAL	Initials		b. THIS SHIPMENT CONTAINS HAZARDOUS MATERIAL	
				(1) Name	(2) UN/NA No.

21. CONTAINER AND COMMODITY DATA

a. CONTRACT ITEM NO.	b. UNITS PER PKG/COS	c. PKG/COS (1) No.	c. PKG/COS (2) Type	d. DESCRIPTION OF COMMODITY *(NSN No., Freight classification including UFC/NMFC Item No.) (For all package sizes show dimensions in INCHES.)*	e. WT. PER PKG/COS *(Pounds)*	f. CUBE PER PKG/COS *(Feet)*
g. TOTALS						

22. CONTRACT (PII) NUMBER	23. FOB CONTRACT TERMS	24. FOB POINT *(City and State)*

25. REQUESTER

a. TYPED OR PRINTED NAME *(Last, First, Middle Initial)*	b. TELEPHONE NO./EXTENSION *(Include area code)*	c. SIGNATURE	d. DATE SIGNED *(YYMMDD)*

DD Form 1659, MAR 89 *Previous editions are obsolete.* 1060/16

DEPARTMENT OF DEFENSE FORMS

253.303-70-DD-1659

DD Form 1659: Application for U.S. Government Shipping Documentation/Instructions—Continued

24. REMARKS		
To be completed by Transportation Officer		
27. CARRIER(S) OR ROUTING(S)	28. TARIFF OR TENDER NO. AND DATE	29. ROUTE ORDER/RELEASE NO. 30. TRANSPORTATION FUNDS
31. FREIGHT RATE SPECIALIST		
a. SIGNATURE	b. TELEPHONE NO. *(Include area code)*	c. DATE SIGNED *(YYMMDD)*

INSTRUCTIONS FOR COMPLETION OF DD FORM 1659

GENERAL

This form will be used to obtain: (a) Government Bills of Lading under FOB origin contracts, (b) a Domestic Route Order under FOB origin contracts, (c) an Export Traffic Release regardless of FOB terms, or (d) FMS shipment instructions, in compliance with DoD regulations and procedures. Prepare separate forms for each contract/purchase order or destination.

To insure that shipments are accomplished in accordance with contract delivery schedule, application(s) should be submitted in duplicate, at least 10 days in advance of actual shipping date, to the Transportation Office of the contract administering office. Applications must be submitted 15 days in advance for FMS shipments.

To avoid excess cost, do not order or load carrier's equipment until routing instructions are received.

Export shipments require marking in accordance with MIL-STD-129, "Marking for Shipment and Storage." Markings should not be applied until complete and accurate shipment information has been provided by the Transportation Office.

Items 1, 3, 4, 24, 25, and 27 through 31 are self-explanatory.

Item 2. Leave blank. The transportation office will complete if necessary.

Item 5. Enter the city, town or point, state and ZIP Code, according to the shipping mode when the destination is located in the continental U.S. (CONUS). Show the address found in the contract if the destination is overseas. Identify a water terminal only when the contract terms are FOB/FAS Port.

Item 6. Specify the Standard Point Location Code (SPLC), if known, for the CONUS destination shown in Item 5. Leave blank for overseas destinations.

Item 7. Enter the SPLC for the origin point in Item 8.

Item 8. Designate the actual location where shipment will be tendered to a carrier.

Item 9. Enter the name and address of the ultimate consignee shown in the contract. Do not show a port of embarkation (POE).

Item 10. Record the 6-digit DoD Activity Address Code assigned to the ultimate consignee as found in the contract. The DODAAC should be identical to the one which will be recorded in Item 13, DD Form 250.

Item 11. Annotate the Contractor and Government Entity (CAGE) Code assigned to the actual shipper. Show the CAGE Code for a packaging facility if the shipment will be tendered at that location.

Item 12. Enter the name of the actual shipper, prime or subcontractor as appropriate, and address if different from Item 8.

Item 13. Identify data shown in the contract which affects marking, transportation, delivery, and export of packages or shipping containers.

Item 14. Specify the earliest date your shipment can be tendered to a carrier.

Item 15. Enter a date only when specific instructions indicate the shipment must be delivered on or before that date.

Item 16. Indicate the Transportation Priority (TP) or the Issue Priority Group (IPG) for the shipment as stated in the contract or shipping instructions, if not available, leave blank.

Item 17. Enter type and size of equipment needed to accommodate a full load.

Item 18. Enter any special handling or protective instructions required for hazardous, sensitive, or classified material, temperature limitations, fragility, etc. FOR TRANSPORTATION OFFICES: Add transit information for a route order request, if appropriate.

Item 19. Show the rail carrier including the Standard Carrier Alpha Code (SCAC) serving the origin point. FOR TRANSPORTATION OFFICES: Complete consignee information when applicable.

Item 20. The appropriate statement MUST be marked. If shipment contains hazardous material, enter proper shipping name(s) in accordance with 48 CFR, Section 172.101 and United Nations/North America number(s).

Item 21. Enter data as described. Totals in line g. must describe entire shipment. Include unit of packaging in column b., e.g., "30 / COS." Be sure to state dimensions in INCHES.

Item 22. Enter the complete contract (PII) number. Specify also the delivery order number when added to the basic contract or the shipping authority when different than the contract.

Item 23. Indicate the FOB term (origin, destination, etc.) as stated in the contract.

Item 26. Record necessary data not otherwise shown. If the application covers multiple shipments, specify the number of the shipments, total weight and cube for each shipment, transportation priority, and dates shipments will be available.

DD Form 1659 Reverse, MAR 89

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